



Town of Herndon Virginia

Year 1 VPDES Annual Report Permit No. VAR040060

In Compliance with the
Virginia Pollutant Discharge Elimination System and
Virginia State Water Control Law

July 28, 2004



Department of Public Works
Town of Herndon
777 Lynn Street
Herndon, Virginia 20170

**VPDES General Permit for
Small Municipal Separate Storm Sewer Systems
Permit No. VAR040060**

Year 1 Annual Report
August 1, 2003 – July 31, 2004

Town of Herndon, Virginia

Submitted by:

Department of Public Works
Town of Herndon
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Herndon, Virginia 20170

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August 1, 2003 – July 31, 2004
Town of Herndon, Virginia

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1 Introduction

This Annual Report has been prepared by the Town of Herndon Department of Public Works to comply with the requirements of the Virginia Pollution Discharge Elimination System (VPDES) General Permit for Discharges of Storm Water from Municipal Separate Storm Sewer Systems (MS4). Under 9VAC25-31-10 *et seq* of the Code of Virginia, the Town of Herndon developed and submitted a Registration Statement and Stormwater Management Plan to the Virginia Department of Environmental Quality (DEQ) to address six minimum control measures aimed at reducing the discharge of pollutants to the “maximum extent practicable.” Minimum control measures include:

1. Public Education and Outreach	4. Construction Site Runoff Control
2. Public Participation and Involvement	5. Post-Construction Runoff Control
3. Illegal Discharge Detection and Elimination	6. Pollution Prevention and Good Housekeeping

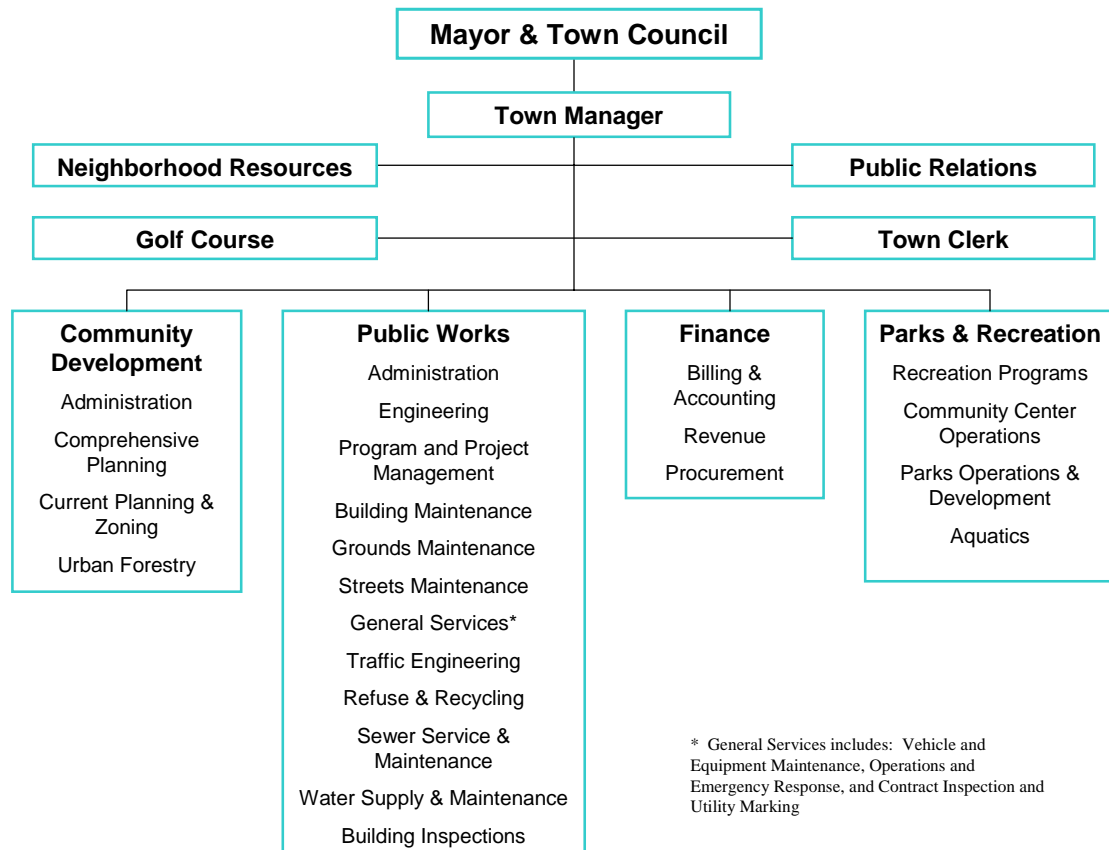
The Department of Environmental Quality issued General Permit VAR040060 to the Town of Herndon on July 8, 2003. Under the terms of the General Permit, the Town must submit a Year 1 Annual Report no later than August 1, 2004. Part II.E.2 of the General Permit outlines the requirements for the Annual Report:

“The permittee must submit an annual report to the Director by the first, second, and fourth anniversaries of the date of coverage under this permit. The reports must include:

- a. The status of compliance with permit conditions, an assessment of the appropriateness of the identified best management practices and progress towards achieving the identified measurable goals for each of the minimum control measures;
- b. Results of information collected and analyzed, including monitoring data, if any, during the reporting period;
- c. A summary of the stormwater activities the permittee plans to undertake during the next reporting cycle;
- d. Changes in any identified best management practices or measurable goals for any of the minimum control measures;
- e. Notice that the permittee is relying on another government entity to satisfy some or the permit obligations, if applicable; and,
- f. The approval status of any qualifying local programs (if appropriate), or the progress towards achieving full approval of these programs.”

Each reporting requirement is addressed in the following sections. The organizational chart below outlines Town departments with major stormwater management functions or responsibilities that are referenced in this Annual Report.

Stormwater Management Organizational Chart



2 Status of Compliance with Year 1 Permit Conditions

The following provides the status of Year 1 permit conditions for each of the six minimum control measures. At the beginning of each section is a summary table describing the task, the implementation year, the measurable goal as described in the Town's adopted Stormwater Management Plan, and task status. Following the summary table is a more detailed discussion of the implementation status of each task.

2.2 Public Education and Outreach (MCM #1)

The following table is a summary of Year 1 activities for Minimum Control Measure #1 and their completion status.

BMP/Task	Year	Measurable Goal	Status
A. Publicize opportunities for the Town's citizens to become involved in non-government efforts to reduce stormwater pollution.	1	By the end of permit year (PY) 1, determine appropriate Town communication outlets for routinely publicizing non-government efforts (such as the Town's web site and the Herndon Community Television) and develop a mechanism for notifying organizations of these opportunities. Document this process in the PY 1 annual report to DEQ.	Complete
B. Utilize existing communications outlets available to the Town to educate residents on how to prevent stormwater pollution. Base messages on seasonal considerations as well as the need to address specific pollutants/activities of concern.	1	By the end of PY 1, work with Herndon Community Television (HCTV) to either broadcast a seasonal text message on stormwater management/water quality and/or produce a show on stormwater management/water quality. Implement the text message and/or show four times annually beginning in PY 2.	On schedule
		By the end of PY 1, develop specific messages relating to stormwater pollution prevention to be included in the Town's annual Drinking Water Quality Report and Annual Calendar. Implement the message in PY 2.	In progress

BMP/Task	Year	Measurable Goal	Status
B. (continued)		At the beginning of PY 1, the Public Relations Activity Center will distribute a press release highlighting the purpose and objectives of the Town's VPDES General Permit and associated Stormwater Management Plan.	Complete
C. Develop new public education and outreach materials for delivery to Town residents and businesses based on an assessment of significant pollutants of concern.	1	By the end of PY 1, the Town will develop educational materials aimed specifically at proper dog waste disposal. This educational material will be targeted at the Town's Dog Park. By the beginning of PY 2, the Town will implement an ongoing distribution plan for these educational materials.	On schedule
E. Assist the Fairfax County Public Schools (FCPS) system to incorporate stormwater/water quality educational materials into the student curriculum.	1	By the end of PY 1, work with appropriate contacts at the FCPS and/or directly with student groups, when possible, to determine how the Town can help Herndon area schools incorporate stormwater education materials into school curricula.	Complete

2.1A Publicize Opportunities for Non-Governmental Efforts

This task requires that the Town determine appropriate outlets for routinely publicizing non-government efforts to reduce stormwater pollution. This is being done in order to provide an opportunity for additional Town residents to become involved in efforts to reduce stormwater pollution. The Town has selected it's own website (<http://www.town.herndon.va.us/>) and Herndon Community Television (Channel 23) as the preferred and most appropriate outlets for routinely publicizing non-government efforts to reduce stormwater pollution.

2.1B Utilize existing communications outlets.

This task requires that the Town work with Herndon Community Television (HCTV) to produce a program on stormwater management/water quality with broadcast of the program to begin in PY2. The Town has arranged with HCTV to broadcast the program "After the Storm". Full broadcast rights will be obtained after August 5, 2004 and the program will be shown following that date.

This task also requires the Town to develop specific messages relating to stormwater pollution prevention to be included in the Town's annual Drinking Water Quality Report and Annual Calendar. The message pertaining to Stormwater was not available in time for printing of the 2004 Annual Calendar, or 2003 Water Quality Report. The 2005 Annual Calendar is in print now and the Stormwater Message will be included there.

The Town has also distributed a press release highlighting the purpose and objectives of the Town's VPDES General Permit and associated Stormwater Management Plan. A copy of the press release is included in **Appendix 1B**. In addition, educational materials were distributed at the Arbor Day event organized and coordinated thru Community Development and the Earth Day event, which was coordinated through Parks and Recreation.

2.1C Develop new public education and outreach materials

This task requires the Town to develop educational materials aimed specifically at proper dog waste disposal. This educational material is to be targeted at the Town's Dog Park. Based on the status of Sugarland Run as an impaired water on the State's 303(d) list, the Town intends to provide specific information to residents on how they can prevent fecal coliform from entering the storm sewer system. The material is to be distributed in PY 2. The Town has completed design of a brochure targeted at patrons of the Town's Dog Park, which will be printed and made available in PY2. A copy of the brochure is included in **Appendix 1C**.

2.1E Assist the Fairfax County Public Schools to incorporate stormwater/water quality educational materials into the student curriculum.

This task requires the Town to work with appropriate contacts at the FCPS and/or directly with student groups to help incorporate stormwater education materials into school curricula. Educating school children on stormwater and pollution prevention will help promote better public awareness in general and will help instill a conservation ethic in the Town's children for a lifetime. The Town has presented information to groups within the School system on eight occasions.

2.3 Public Involvement/Participation (MCM #2)

The following table is a summary of Year 1 activities for Minimum Control Measure #2 and their completion status.

BMP/Task	Year	Measurable Goal	Status
A. Follow public notice requirements for the Town Council's meeting(s) regarding the implementation of the Town's VPDES Phase II permit.	1	Provide public notice as required in Town Code.	Complete
B. Hold a Public Information Session on the VPDES Phase II program and the Town's plans for complying with the General Permit.	1	Hold one public information session during PY 1.	Complete

2.2A Public Notice

This task requires the Town to follow public notice requirements for the Town Council's meeting(s) regarding the drafting/implementation of any Town Code changes relating to the Town's VPDES MS4 permit implementation or other water quality initiatives. The legal advertisements for items on the Town Council's agenda are published in the Herndon Observer. The Town Council meetings and agendas are posted on the website. The dates of Town Council meetings are published in the calendar and in the Inside Track, which comes out the first Friday of the month.

A copy of the Agenda for the Council meeting of 2/4/03 is included in **Appendix 2A**.

2.2B Public Information Session

Under this task, the Town is required to hold a Public Information Session on the VPDES Phase II program and the Town's plans for complying with the General Permit. This is being done in order to educate citizens and build support for the Town's efforts and to provide an opportunity for citizens to have input into program implementation

The Town distributed educational material at Community Day sponsored by NRC on May 1, 2004

2.4 Illicit Discharge Detection and Elimination (MCM #3)

The following table is a summary of Year 1 activities for Minimum Control Measure #3 and their completion status.

BMP/Task	Year	Measurable Goal	Status
A. Surveying and mapping of the Town's storm sewer infrastructure	1	A map showing storm sewer outfalls and all receiving streams will be completed for inclusion in the Town's year 4 annual report to DEQ.	On schedule
B. Amend the Town Code as necessary	1	Complete and adopt Town Code revisions by the end of PY 1.	Complete
D. Publicize the availability of proper household hazardous waste (HHW) disposal options.	1	At least one message annually developed in MCM #1 will address proper HHW disposal.	Complete
E. Continue and expand the Town's storm drain marking program.	1	Document continued placement of storm drain markers in annual reports to DEQ.	Complete

2.3A Surveying and mapping of the Town's storm sewer infrastructure

This task requires the Town to continue mapping all outfalls and receiving streams for inclusion in the PY4 Annual Report. The Town is currently mapping its entire storm sewer infrastructure through a contractor. The final Geographic Information System (GIS) data set is expected to contain information on pipe sizes, invert, and direction of flow. At present, the mapping is approximately 60% complete and is proceeding on schedule.

2.3B Amend Town Code

This task requires the Town to complete and adopt necessary Town Code revisions by the end of PY 1 and to provide revisions to DEQ in the PY 1 Annual Report. This is to ensure that the Town has the appropriate authority to prohibit non-stormwater discharges into the MS4 and to take necessary enforcement actions. The Town's existing authority is outlined in the Liquid and Solid Waste Standards Ordinance (Chapter 78) and Town Code Section 26-168 "Inspection for health or safety menaces".

A public hearing on the proposed ordinance revision to provide necessary authority to inspect for and eliminate non-stormwater discharges to the MS4 was held at the regular Town Council Meeting on July 13, 2004. At that meeting, the revisions to Article I, In General, Chapter 74, Utilities, Herndon Town Code, was approved by the Town Council, bringing the Town into compliance with VPDES regulations regarding the elimination of non-stormwater discharges, except those permitted under VPDES regulations, to the MS4.

A copy of the amended ordinance is included in **Appendix 3B**.

2.3D. Publicize the availability of proper household hazardous waste (HHW) disposal options.

This task requires the Town to produce at least one message annually aimed at publicizing the options for proper HHW disposal. This is being done to reduce the incidence of improper disposal of hazardous waste by providing an alternative to dumping. The Town wishes to increase residents' awareness of existing Fairfax County facilities at the West Ox Road Transfer Facility.

Appendix 3D includes the text of a message on proper disposal of Household Hazardous Waste which has been made available on the Town's website

2.3E. Continue and expand the Town's storm drain marking program.

This task requires the Town to document continued placement of storm drain markers in annual reports to DEQ. This is being done in order to reduce the incidence of direct dumping of materials down storm drains by providing a reminder that the MS4 drains to the local stream network. The Town has already begun implementation of a marker program in coordination with volunteer groups. Since the receipt of our VPDES Permit, the Town has placed approximately 500 additional 'No Dumping' placards on storm drain inlets.



2.5 Construction Site Stormwater Runoff Control (MCM #4)

The following table is a summary of Year 1 activities for Minimum Control Measure #4 and their completion status.

BMP/Task	Year	Measurable Goal	Status
A. Maintain a consistently rated Erosion and Sediment Control Program as defined by the Virginia Department of Conservation and Recreation.	1	The Town will maintain a consistently rated program throughout the permit cycle.	Complete
B. Utilize the Virginia DEQ VPDES General Permit for Stormwater Discharges for Construction Activities	1	Implement and enforce a requirement that site contractors submit a copy of the VPDES General Permit for Stormwater Discharges from Construction Activities, within two weeks of submission to DEQ.	Complete
C. Report the number of regulated land disturbing activities and total disturbed acreage.	1	The Town will report to DEQ in its annual reports the number of regulated land disturbing activities and total disturbed acreage as required.	Complete

2.4A Maintain DCR Erosion and Sediment Control Program Consistency

This task requires the Town to obtain a rating of “consistent” with the Virginia Erosion and Sediment Control Regulations. The Town’s program is rated consistent by the VA DCR. The Town currently has 2 inspectors and a plan reviewer who are certified through the Virginia Department of Conservation and Recreation Erosion and Sediment Control Program. A list of inspectors and plan reviewers an along with expiration dates of their certifications is included in **Appendix 4A**.

2.4B Utilize the Virginia DEQ VPDES General Permit

Under this task, the Town requires that site contractors submit a copy of the VPDES General Permit for Stormwater Discharges from Construction Activities, within two weeks of submission to DEQ. This is done to reduce the likelihood that construction site waste will impact stormwater quality by utilizing an existing DEQ permit requirement.

The following statement was added to the Town’s Engineering PRE-CONSTRUCTION MEETING CHECKLIST on page 1: “A Construction Activity Operator is required to submit VPDES General Permit for Stormwater Discharges from Construction Activities [VAR 10] to DEQ and provide a copy to DPW, within a week of this meeting.”

2.4C Report the number of regulated land disturbing activities and total disturbed acreage.

Under this task, the Town is required to report to DEQ in its annual reports the number of regulated land disturbing activities and total disturbed acreage as required. This report is included in **Appendix 4C**.

2.6 Post Construction Stormwater Management (MCM #5)

The following table is a summary of Year 1 activities for Minimum Control Measure #5 and their completion status

BMP/Task	Year	Measurable Goal	Status
A. Maintain a consistently rated Chesapeake Bay Preservation Ordinance	1	The Town's CBPO will be certified consistent with amended Chesapeake Bay Preservation Area Designation and Management Regulations by the Chesapeake Bay Local Assistance Board.	Complete
B. Eliminate opt-out provisions in the Town CBPO	1	The Town's CBPO will be amended to eliminate the opt-out provision or substitute the provision with a fee-in-lieu of program.	Complete
C. Track all permanent BMPs installed in the MS4	1	The Town will implement a system to track necessary BMP information	Complete

2.5A Maintain a consistently rated Chesapeake Bay Preservation Ordinance

This task requires that the Town be certified consistent with amended Chesapeake Bay Preservation Area Designation and Management Regulations. The Town has achieved a consistent rating as shown in http://www.cblad.state.va.us/local_status_contacts.cfm.

2.5B Eliminate opt-out provisions in the Town CBPO

This task requires that the Town's CBPO will be amended to eliminate the opt-out provision. This change has been made and the modified CBPO is included in **Appendix 5B**.

2.5C Implement a system to track necessary BMP information

This task requires that the Town track all permanent BMPs installed in the MS4 and collect information necessary to meet the requirements of MCM #5. A database has been developed and sample screenshots are shown in **Appendix 5C**.

2.7 Pollution Prevention/Good Housekeeping for Municipal Operations (MCM #6)

The following table is a summary of Year 1 activities for Minimum Control Measure #6 and their completion status

BMP/Task	Year	Measurable Goal	Status
A. Document the Town's current pollution prevention activities and frequencies relating to municipal operations	1	Document all ongoing Town pollution prevention activities. Documentation of activities will be provided in annual reports at the conclusion of permit years 1,2, and 4.	Complete.
B. Maintain and track certification for all employees handling and applying herbicides and pesticides in the Town	1	Establish and implement a mechanism for tracking all applicable certifications.	Complete.

2.6A Document the Town's current pollution prevention activities

This task requires the Town to document all ongoing Town pollution prevention activities. This is being done to quantify current Town activities that demonstrate responsible water quality management by Town personnel. Documentation of activities (including the draft Stormwater Pollution Prevention Plan) is attached in **Appendix 6A**.

2.6B Maintain and track certification for all employees handling and applying herbicides and pesticides

This task requires that the Town establish and implement a mechanism for tracking all applicable certifications. This is being done to ensure that all Town employees that handle controlled, land applied substances receive proper training and certification in the use and storage of those substances. Current certification information is included in **Appendix 6B**.

3 Summary of Year 2 Planned Activities

The Year 2 Annual Report will include a description of ongoing activities from Year 1, any follow-up activities required for Year 1, and the compliance status of measurable goals planned for Year 2. The following table summarizes by minimum control measure the planned activities to meet outstanding Year 1 issues and Year 2 measurable goals.

BMP/Task	Year	Planned Activity
Minimum Control Measure #1 – Public Education and Outreach		
A. Implement system for publicizing non-government efforts.	2	Public Relations in cooperation with Public Works will implement the system adopted in PY1 for using HCTV and the Town website to publicize non-government efforts to reduce stormwater pollution.
B. Show HCTV program.	2	Public Relations in cooperation with Public Works will continue with the HCTV program on Stormwater. – Program will be shown four times during the year.
B. Develop specific messages to include in Town's annual Drinking Water Quality Report and Annual Calendar.	2	Public Relations in cooperation with Public Works will implement specific messages relating to stormwater pollution prevention to be included in the Town's annual Drinking Water Quality Report and Annual Calendar.
B. Develop seasonally specific pollution prevention press releases.	2	Public Relations Activity Center will develop and distribute seasonally specific stormwater pollution prevention press releases to the Town's community newspapers. Releases will be made at least four times annually.
B. The Town will include stormwater education in the Town's Earth Day/Arbor Day events.	2	A stormwater message will be included in the Town's Earth Day/ Arbor Day educational materials.
C. Develop and distribute educational materials on proper dog waste disposal.	2	Public Relations in cooperation with Public Works will continue to distribute a brochure targeted to the Town's Dog Park.
C. Identify other sources of pollution controllable through behavior changes and report to DEQ.	2	The Town will identify other major sources of pollution, including those from Town residents and businesses, which are controllable through changes in behavior and report to DEQ how the Town intends to address these sources of pollution.
D. Develop and include stormwater questions in annual community survey.	2	Public Works will add two questions to the annual survey designed to assess residents' understanding of stormwater issues.

BMP/Task	Year	Planned Activity
Minimum Control Measure #1 – Public Education and Outreach (continued)		
E. Coordinate with FCPS located in the Town of Herndon.	2	Public Works will continue to work with selected school related groups to introduce stormwater information into the curriculum.
Minimum Control Measure #2 – Public Involvement/Participation		
C. Create annual stormwater program review session by the Planning Commission.	2	The Town Manager together with Public Works and Community Development will implement an annual stormwater program review session by the Herndon Planning Commission.
Minimum Control Measure #3 – Illicit Discharge Detection and Elimination		
A. Complete map showing all storm sewer outfalls.	2	Public Works will continue with mapping of outfalls and receiving streams in the Town.
D. Publicize the availability of HHW disposal options.	2	Public Works in cooperation with Public Relations will continue to publicize the options for disposal of Household Hazardous Waste.
E. Continue and expand the Town's storm drain marking program.	2	Public Works will continue with the marking program for storm drains.
E. Develop and distribute door hanger to accompany the storm drain marker.	2	Public Works will distribute door hangers with a stormwater message.
F. Publicize used oil, oil filter, and antifreeze collection and recycling centers in the Town calendar.	2	Public Relations and Public Works will publicize options for oil and antifreeze recycling using the Town Calendar.
Minimum Control Measure #4 – Construction Site Stormwater Runoff Control		
A. Provide documentation of the Town's consistent E&SC program.	2	Public Works will continue to maintain a rating of "consistent" from the Virginia Department of Conservation and Recreation for the Town's Erosion and Sediment Control (E&SC) Program.
B. Require evidence of VPDES Permit for the Discharge of Stormwater from Construction Sites.	2	Public Works will continue to require the Virginia DEQ VPDES General Permit for Stormwater Discharges for Construction Activities.

BMP/Task	Year	Planned Activity
Minimum Control Measure #4 – Construction Site Stormwater Runoff Control (continued)		
C. Report tracking information to DEQ.	2	Public Works will continue to report the number of regulated land disturbing activities and total disturbed acreage.
Minimum Control Measure #5 – Post Construction Stormwater Runoff Control		
C. Develop and maintain a BMP database for all new facilities.	2	Public Works together with Community Development will maintain and continue to develop the database for tracking new BMP facilities.
D. Establish Town inspection schedule for private BMPs.	2	Public Works together with Community Development will develop a schedule for Town staff to inspect private BMPs to ensure maintenance compliance (post permit issuance BMPs).
D. Amend Town BMP maintenance agreement.	2	The Town Attorney, Public Works, and Community Development will work to amend BMP maintenance agreements to require an annual maintenance report from BMP owners/operators (post permit issuance BMPs)
D. Develop written BMP enforcement protocol.	2	The Town Attorney, Public Works, and Community Development will implement a BMP maintenance agreement enforcement protocol to enforce BMP maintenance agreement provisions.
Minimum Control Measure #6 – Pollution Prevention/Good Housekeeping		
A. Document ongoing pollution prevention activities	2	Public Works will continue to document all ongoing Town pollution prevention activities.
B. Maintain and track herbicide and pesticide certifications.	2	Public Works will continue to track certification for all employees handling and applying herbicides and pesticides in the Town.
C. Incorporate stormwater quality management information into ongoing employee training/safety programs. Document all water quality training activities.	2	The Town Manager and Public Works will develop a water quality training program for Town staff and all new employees.

4 Changes in Identified BMPs or Measurable Goals

The VPDES Phase II program as outlined in the NOI seems to be working to the satisfaction of the citizens of Herndon and is deemed to be a workable and cost effective plan. No changes in identified BMPs or Measurable Goals have been instituted.

5 Reliance On Other Government Entities

The Town of Herndon is not currently relying on another government entity to satisfy VPDES permit requirements.

6 Approval Status of Qualifying Local Programs

The Town of Herndon has identified the Erosion and Sediment Control Ordinance, mandated by the Virginia Erosion and Sediment Control Regulations, to help satisfy Minimum Control Measure #4 - Construction Site Stormwater Runoff Control. In addition, the Town has identified the Chesapeake Bay Preservation Ordinance, mandated by the Virginia Chesapeake Bay Preservation Area Designation and Management Regulations, to help satisfy Minimum Control Measure #5 - Post Construction Stormwater Runoff Control. The Town is currently in full compliance with both the Virginia Erosion and Sediment Control Regulations and the Chesapeake Bay Preservation Area Designation and Management Regulations. The Town adopted amendments to the Chesapeake Bay Preservation Ordinance on February 10, 2004 to comply with changes in the State regulations. The revised ordinance is currently under review by staff of the Department of Conservation and Recreation, Chesapeake Bay Local Assistance Division, and will be considered for consistency by the Chesapeake Bay Local Assistance Board on December 6, 2004. CBLAD staff has preliminarily indicated that they do not anticipate any major consistency issues.



Appendix 1B

News Release

FOR IMMEDIATE RELEASE
July 6, 2004

Contact: Zoran Dragacevac
Dept. of Public Works
703-435-6853

TOWN'S STORM WATER MANAGEMENT PROGRAM ANNOUNCED

The National Pollutant Discharge Elimination System is a provision in the Clean Water Act to limit pollutant discharges into streams, rivers and bays. In Virginia, the Department of Environmental Quality (DEQ) administers the program as the Virginia Discharge Elimination System (VPDES).

The Town of Herndon submitted a required VPDES "Registration Statement" and storm water management program to the Virginia DEQ in March 2003. The plan was accepted by DEQ on July 8, 2003, without modification. The Town can now legally discharge storm water in the waters of the Commonwealth of Virginia under the VPDES General Permit.

To comply with the VPDES permit, the Town has prepared a storm water management program containing elements that address the following six areas:

- Public Education and Outreach
- Public Participation/Involvement
- Illicit Discharge Detection and Elimination
- Construction Site Runoff Control
- Post-Construction Runoff Control
- Pollution Prevention/Good Housekeeping

For each of the minimum control measures, the Town has identified best management practices (BMPs) and measurable goals to meet the regulatory requirements to reduce the

- MORE -

STORM WATER MANAGEMENT – page two

pollutant content of storm water discharge. BMPs include simple nonstructural methods, such as good housekeeping and preventative maintenance, and structural measures such as installation of storm water management facilities.

To arrive at appropriate best management practices, the Town engaged in an extensive assessment of the existing storm water management operations, ordinances and programming against the compliance requirements of the VPDES General Permit.

For more information regarding the Town's storm water management program, call Zoran Dragacevac at 703-435-6853.

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Pet owners...



When you clean up after your pet, do you dump the waste in the street or storm sewer? Do you leave it to decay on the sidewalk or the grass near the street? If so, you may be causing pollution or health problems. And you may be breaking the law as well. Did you know that the law requires you to remove the poop your dog deposits on the property of another, including public areas?

Are you polluting our lakes and streams?

Pollutants from improperly disposed pet waste may be washed into storm sewers by rain or melting snow. Storm sewers usually drain directly into our lakes and streams, carrying many pollutants along with the water.

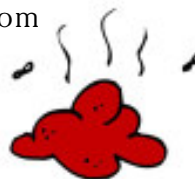
When pet waste is washed into lakes or streams the waste decays, using up oxygen and sometimes releasing ammonia. Low oxygen levels and ammonia combined with



warm temperatures can kill fish. Pet waste also contains nutrients that encourage weed and algae growth. Overly fertile water becomes cloudy and green – unattractive for swimming, boating and fishing. Perhaps most importantly, pet waste carries diseases which make water unsafe for swimming or drinking.

Are you risking your health?

When pet waste is disposed of improperly, not only water quality suffers – your health may be at risk, too. Pets, children who play outside, and adults who garden are most at risk for infection from some of the bacteria and parasites found in pet waste. Flies may also spread diseases from animal waste. Diseases or parasites that can be transmitted from pet waste to humans include:



Campylobacteriosis

A bacterial infection carried by dogs and cats that frequently causes diarrhea in humans.

Cryptosporidium

A protozoan parasite carried by dogs, cats, mice, calves and many other mammals. Common symptoms include diarrhea, stomach cramps, nausea and dehydration. May be fatal to people with depressed immune systems.

Toxocariasis

Roundworms usually transmitted from dogs to humans, often without noticeable symptoms, but may cause vision loss, a rash, fever, or cough.

Toxoplasmosis

A protozoan parasite carried by cats that can cause birth defects such as mental retardation and blindness if a woman becomes infected during pregnancy; also a problem for people with depressed immune systems. Symptoms include headache, muscle aches, lymph node enlargement.

You CAN make a difference!

The job of cleaning up after your pet can be as simple as taking a plastic bag or pooper scooper along on your next walk. What should you do with the waste you pick up? No solution is perfect, but here are the choices:

1 Flush it down the toilet

The water from your toilet goes to a septic system or sewage treatment plant that removes most pollutants before the water reaches a lake or stream. To prevent plumbing problems, don't try to flush debris such as rocks, sticks or cat litter. Cat feces may be scooped out and flushed down the toilet, but used litter should be put in a securely closed bag in the trash.



2 Bury it in the yard

Dig a hole or trench that is:

- About 5 inches deep;
- Away from vegetable gardens;
- Away from any lake, stream, ditch or well.



Don't add pet waste to your compost pile. The pile won't get hot enough to kill disease organisms in pet waste.

3 Put it in the trash

Check local ordinances first. Putting pet waste in the trash is against the law in some communities.



Another option is to install an underground pet waste digester that works like a small septic tank. Before buying one, check local laws that may restrict their use, design or location.

Please "Scoop the Poop."

We all want the **Chandon Park Off-Leash Dog Exercise Area** to be a safe, clean place for our canine companions. Please monitor and pick up after your dog. Covered trash containers are located throughout the dog park and empty bags should be available if you've forgotten to bring your own. (Please help keep the bag supply plentiful by donating any plastic bags you may have from purchases, etc.)



We now have pooper scoopers at the dog park to help everyone clean up after their pets. And since we all occasionally miss picking up our own pet's poop, why not use the scoopers to clean up after someone else.

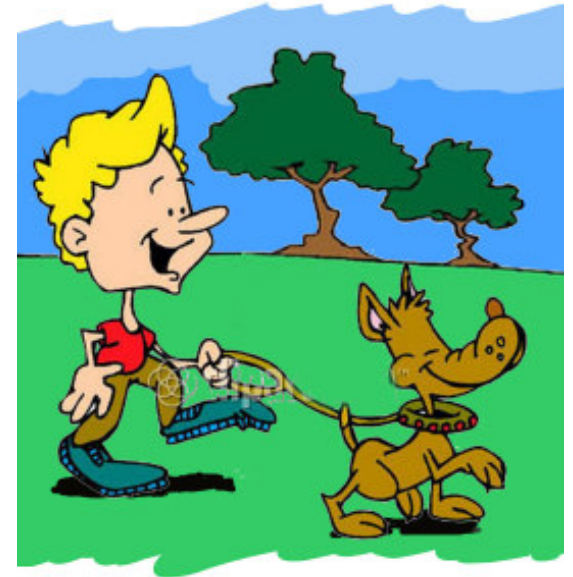
Together, we can make the park a clean and pleasant place for everyone!

Department of Public Works

Town of Herndon
777 Lynn Street
Herndon, Virginia 20170



Pet Waste, Water Quality and Your Health



Pet waste is a health hazard and a water pollutant.

Protect your health and our waterways...

Clean up after your pet!

Pet owners...

When you clean up after your pet, do you dump the waste in the street or storm sewer? Do you leave it to decay on the sidewalk or the grass near the street? If so, you may be causing pollution or health problems. And you may be breaking the law as well. Did you know that the law requires you to remove the poop your dog deposits on the property of another, including public areas?



Are you polluting our lakes and streams?

Pollutants from improperly disposed pet waste may be washed into storm sewers by rain or melting snow. Storm sewers usually drain directly into our lakes and streams, carrying many pollutants along with the water.

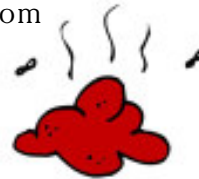
When pet waste is washed into lakes or streams the waste decays, using up oxygen and sometimes releasing ammonia. Low oxygen levels and ammonia combined with



warm temperatures can kill fish. Pet waste also contains nutrients that encourage weed and algae growth. Overly fertile water becomes cloudy and green – unattractive for swimming, boating and fishing. Perhaps most importantly, pet waste carries diseases which make water unsafe for swimming or drinking.

Are you risking your health?

When pet waste is disposed of improperly, not only water quality suffers – your health may be at risk, too. Pets, children who play outside, and adults who garden are most at risk for infection from some of the bacteria and parasites found in pet waste. Flies may also spread diseases from animal waste. Diseases or parasites that can be transmitted from pet waste to humans include:



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- Away from any lake, stream, ditch or well.



Don't add pet waste to your compost pile. The pile won't get hot enough to kill disease organisms in pet waste.

3 Put it in the trash

Check local ordinances first. Putting pet waste in the trash is against the law in some communities.



Another option is to install an underground pet waste digester that works like a small septic tank. Before buying one, check local laws that may restrict their use, design or location.

Welcome!

Welcome to the **Chandon Park Off-Leash Dog Exercise Area!** Dog parks provide many benefits to our canine companions, the people who love them, and the community as a whole! The Chandon Park Dog Park needs your cooperation to make it (and keep it) a success! Here's how you can help:

Know and Follow the Rules and Report Problems

Please read FCPA's Dog Park Rules and Herndon Dogs, Inc. Dog Park Etiquette.

As the sponsor group, Herndon Dogs, Inc. needs to be aware of any dog park issues. Contact information and forms are available at the kiosk. We also have a voice mail line where you can leave information, questions, comments, and suggestions: (703) 578-0522.

If you observe any suspicious behavior and feel threatened, please contact the Herndon Police immediately at (703) 435-6846.

Please "Scoop the Poop"

Please monitor and pick up after your dog. Covered trash containers are placed throughout the dog park and empty bags should be available, if you've forgotten to bring your own. (Please help keep the bag supply plentiful by donating any plastic bags you may have from purchases, etc.)

We now have pooper scoopers at the dog park to help everyone clean up after their



pets. And since we all occasionally miss picking up our own pet's poop, why not use the scoopers to clean up after someone else.

Do Not Allow Your Dog to Bark Continuously

Although some barking is to be expected in a dog park, continuous barking must be controlled in order to maintain a good relationship with the neighboring community.

Make a Donation

To keep our dog park clean, maintained, and (hopefully) improved, we need donations from the public. Monetary support can be mailed to Herndon Dogs, Inc., PO Box 250, Herndon, VA 20172-0250.

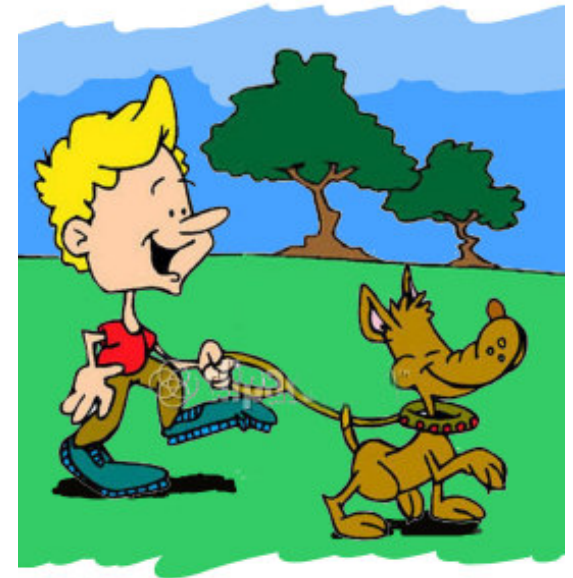
Join Herndon Dogs, Inc.

The best way to be actively and directly involved in the success of the dog park is to join Herndon Dogs, Inc. For further information, please visit our website at: <http://www.herndondogs.org> or call our activity line at (703) 578-0522.

Together, we can make the park a clean and pleasant place for everyone!

This brochure was developed with permission from the University of Wisconsin-Extension & Wisconsin Department of Natural Resources.

Pet Waste, Water Quality and Your Health



Pet waste is a health hazard and a water pollutant.

Protect your health and our waterways...

Clean up after your pet!

Appendix 2A



Copies of audio and video recordings of meetings of the Herndon Town Council (except work session meetings) are available for review and can be purchased upon request. Please call 703-435-6804 or 703-435-6817 (TDD).

HERNDON TOWN COUNCIL

***Tuesday
February 4, 2003***

The Town Council met in public session on Tuesday, February 4, 2003, at 7:35 p.m. in the Council Chambers Conference Room, 765 Lynn Street. In attendance were:

Mayor:

Richard C. Thoesen

Councilmembers:

Carol A. Bruce
John M. De Noyer
Dennis D. Husch
Connie H. Hutchinson
Michael L. O'Reilly
Harlon Reece

Town Manager:

Stephen F. Owen

Town Attorney:

Richard B. Kaufman

Acting Town Clerk/Legislative Assistant:

Margie C. Tacci

Director of Community Development:

Henry G. Bibber

Director of Finance:

Mary K. Tuohy

Director of Parks and Recreation:

Arthur A. Anselene

Director of Public Works:

Albert R. Colan

Chief of Police:

Toussaint E. Summers, Jr.

Human Resources Manager:

Linda A. Simmons

Neighborhood Resources Coordinator:

Elizabeth A. Hagg

Purchasing/Revenue Supervisor:

W. David Welford

Senior Planner:

Dana E. Heiberg

Senior Engineer:

Zoran Dragacevac

February 4, 2003
(work session)

Mayor Thoesen called the meeting to order at 7:35 p.m.

PRESENTATION

Certificate of Responsible Citizenship to Ms. Karen Howard.

There was no discussion on this item; however, it was noted that Ms. Karen Howard would be present at next week's meeting for the presentation.

PUBLIC HEARINGS

1. **Resolution, Solicitation of Comments from the Public, FY 2004 Annual Budget.**

Disclosure: Councilwoman Hutchinson stated, for the record, that she is the President of the Herndon Dulles Visitor's Center, and an employee of the Herndon Dulles Chamber of Commerce; therefore, she stated she would recuse herself from any portion of the discussion or action that relates to the Herndon Dulles Chamber of Commerce or the Herndon Dulles Visitor's Center.

There was no staff presentation or discussion of this item.

2. **Site Plan, Dominion Virginia Power Substation, Town Plan #02-39;**

3. **Conditional Use Permit Application, CU #02-09, Wachovia Bank; and**

4. **Vacation and Alteration, Portion of First Street Right-of-Way.**

(Note: Earlier in the day, the Director of Community Development announced public hearings on the above-referenced items would have to be continued due to failure by Town staff to properly post signs on the properties. The items have been rescheduled for the Council's work session of February 18 and public session of February 25, 2003.)

For the sake of brevity, Mayor Thoesen requested, without objection, that staff forego its presentation of these items.

Councilman Husch questioned if there were any proffers associated with the conditional use permit for Wachovia Bank.

The Director of Community Development stated he did not believe there were proffers; however, he would look into the matter and advise Council.

There was brief discussion of these items.

February 4, 2003
(work session)

GENERAL

5. Resolution, Consideration of Request to Release Maintenance Bond, Finley Property Site Plan, Town Plan #97-5.

There was no discussion of this item; however, staff was requested to place this item on the "Consent Agenda" for next week's meeting.

DISCUSSION

1. Finance Ad Hoc Committee Report and Estimated FY 2004 General Fund Revenues.

The Director of Finance briefly outlined the former Town Manager's memorandum of January 30, 2003, which is on file in the Town Clerk's office. She summarized attachments 1 and 2 of the memorandum and provided an overview of the preliminary revenue projections for the FY 2004 Budget.

Councilman Husch stated he recently read in The Washington Post about Fairfax County's 14 percent increase in real estate taxes. He questioned the status of the Town's real estate tax projections.

The Director of Finance stated the official numbers would not be available until late February or early March. She stated it is possible that the Town could be looking at a 14 percent increase like Fairfax County.

The Director of Finance stated she and the following individuals are members of the Finance Ad-Hoc Committee:

- Councilman O'Reilly, Chairman;
- Councilman Husch;
- Councilman Reece;
- Arthur A. Anselene, Director of Parks and Recreation; and
- W. David Welford, Supervisor of Purchasing/Revenue.

She presented the Committee's tax projection study, which was undertaken by the Town's fiscal auditors (Government Finance Group/ARD) in October 2002. The goal of the study was to provide the Town's current and potential major sources of revenue. The study was presented to the Committee in December 2002 and focused on four new sources of revenue and three possible enhancements to current taxes, fees, and licenses. The study includes proposals for the following taxes:

- Business, Professional, and Occupational License (BPOL) Tax;
- Consumer Utility Tax;
- Motor Vehicle License Tax;

February 4, 2003
(work session)

- Admissions Tax;
- Cellular Telephone Tax;
- Meals Tax; and
- Special District Tax.

In summary, the Director of Finance stated it was the consensus of the Committee that the meals tax be the only additional revenue source considered by the Town Council.

Councilman O'Reilly stated the role of the Committee was not to promote or add taxes, but to study the Town's current major sources of General Fund revenues and investigate other potential revenue sources. These sources might be used to offset some the declining revenue the Town is currently experiencing and possibly allow a reduction of the current real estate tax. He stated Fairfax County is looking at adopting similar taxes.

Councilman O'Reilly stated the 2002 Virginia General Assembly tried to enact equal taxing authority for all counties in Virginia; however, the bill was referred to committee. He expressed his belief that the bill would return next year and, if passed, would authorize Fairfax County to enact a meals tax, and reap the benefits from the Town. He stated the Council should re-think and re-evaluate the meals tax before other legislation is passed by the General Assembly.

Councilman Reece stated the study indicates that 40 percent of the meals tax revenue would be from individuals outside the Town, but he believes that is a low estimation.

The Director of Finance clarified that the percentage was based on Fairfax County as a whole.

Councilman O'Reilly agreed with Councilman Reece. He stated Mr. Dan Chamberlain, previous owner of the Ice House Café, maintained a mailing list for his customers and he estimated that approximately 80 percent lived outside Town limits.

Mayor Thoesen commended the Finance Ad-Hoc Committee for their efforts to look at different variables of revenue. He stated an admissions tax could be used for Town events. He did not like the cellular phone tax. He stated the meals tax sounded very attractive and, from his conversations with representatives of other jurisdiction, there is very little ripple effect from a meals tax. He stated the timing is right for such a tax and it would ease the burden of the real estate tax.

Councilman Husch concurred with Mayor Thoesen's statements. He suggested that the Town move forward with the meals tax as quickly as possible. He stated if the Town were to enact a meals tax or any other type of tax, the Town should take the lead from the General Assembly, as the General Assembly is working on

February 4, 2003
(work session)

tax restructuring to ease the burden off the homeowners and user fees. The Town should consider the General Assembly's efforts and determine if a meals tax or another type of tax is needed by looking at which revenue would best reduce the real estate tax.

Councilwoman Hutchinson stated if the equal taxing authority bill was returned to the General Assembly, she was confident that the State legislators would defeat the bill. The Council needs to realize that the restaurant community is the economic engine of the Town. Many people outside of the Town come for the restaurants. She suggested that Council reconsider enacting a meals tax because it could, in essence, negatively impact business and tourism in the Town.

Councilman De Noyer stated he previously spoke with individuals from several restaurants in Town about a possible meals tax. He believes they would rather be taxed by Herndon than by Fairfax County. He stated the equal taxing authority should be watched very closely and the Town should act before Fairfax County.

Councilman O'Reilly clarified that the Town's legislators supported equal taxing authority. He stated the Virginia Association of Counties (VACo), Virginia Municipal League (VML), Fairfax County Chamber of Commerce, and the Greater Washington Board of Trade are all in favor of the equal taxing authority legislation

Mayor Thoesen stated if the equal taxing authority authorizes Fairfax County to enact a meals tax in Herndon, he believes it would in the Town's best interest to enact a meals tax, which would potentially offset the tax burden of the Town's homeowners. The Town would need to partner economic development efforts with restaurateurs. He stated in his earlier years on Council, the meals tax was defeated each time it was proposed and considered. Since the Town is currently projecting a \$1 million shortfall, he believes now is the time to re-visit the meals tax. There will be some drawbacks and possible cuts in Town services. The Council needs to review the additional costs and demands associated with establishing a meals tax. He requested staff to prepare a quick analysis showing the real estate tax verses a meals tax for discussion at the work session of February 18.

The Director of Finance questioned if there would be any type of public input?

Mayor Thoesen stated he would like Council to seriously consider a meals tax matrix and the trade-offs associated with it. Staff should then prepare to go to the public and business community for their input.

Councilman Reece stated it is important to advise the public of this issue and allow them the opportunity to express their opinions to Council. Timing is essential and this issue needs to be presented to the public very soon.

February 4, 2003
(work session)

Mayor Thoesen agreed and requested the Town Attorney to draft an ordinance for the Council's review. He stated he would like to proceed for public consideration within in the next three weeks.

The Town Attorney stated he would proceed with drafting an ordinance.

Mayor Thoesen also requested staff to provide a comparison of tax revenue and tax relief for area jurisdictions that have the meals tax. He suggested two or three towns and two or three neighboring cities.

2. Scenarios, Downtown Traffic Study.

The Director of Community Development provided brief background regarding the Downtown Traffic Study. He stated the Council had deferred the award of contract for the study on November 12, 2002. Subsequently, the Planning Commission had three special meetings to explore alternatives suggested by the Council.

The Senior Planner briefly outlined the memorandum dated January 31, 2003, which is on file in the Town Clerk's office. He summarized the three scenarios and provided an overview of the Planning Commission recommendations.

Brief discussion ensued.

Councilman Husch expressed his appreciation to staff for their excellent work on the report.

Following discussion, it was the consensus of Council that staff proceed with scenarios A & B.

The Director of Community Development stated staff would work with the consultant and provide a scope of work to Council at next week's public hearing.

3. National Pollutant Discharge Elimination System (NPDES), Phase II Permit.

The Senior Engineer briefly outlined the memorandum dated January 31, 2003, which is on file in the Town Clerk's office. He stated the Town began the initial stages of the planning process with the adoption of the Comprehensive Stormwater Master Plan in 2000 (more commonly referred to as "Mother 2"). During the process, staff identified firms with specific stormwater backgrounds. In 2002, AMEC Earth & Environmental was hired to assist the Town in developing a Stormwater Master Plan (SWMP) for submittal to the Virginia Department of Environmental Quality (DEQ). He stated staff and AMEC Earth & Environmental are working to meet the DEQ registration deadline of March 3, 2003 for approval of the SWMP. Once the SWMP has been approved and the permit issued. The permit will not expire until December 2007, at which time the Town may need to reapply.

February 4, 2003
(work session)

The Senior Planner introduced the following representatives of AMEC Earth & Environmental, who presented their proposal for the NPDES Phase II Stormwater Program (copies of the proposal are on file in the Town Clerk's office):

- Ms. Lynn Mowery, Project Manager; and
- Mr. David Bulova, Senior Planner.

There was brief discussion.

4. Fourth of July.

The Director of Parks and Recreation briefly outlined the proposed locations for this year's Fourth of July festivities and fireworks based upon the Council's concerns expressed at the work session of September 17, 2002. He stated staff has reviewed alternative sites at Herndon Middle School, Town Green, and Herndon Centennial Golf Course.

Herndon Middle School would not be workable due to lack of parking, close proximity to homes, and lack of space for participants. The Town Green would not be workable because this year the Fourth of July is on a Friday, which would conflict with the *Friday Night Live!* concert activities. The golf course seems to be the best location for the fireworks display in conjunction with the activities at Bready Park; therefore, staff recommends using Bready Park and the golf course with some changes to the activities at Bready Park.

Staff also recommends that the activities at Bready Park be changed from daytime hours to evening hours. Normally the activities would begin at Noon and end at 4:00 p.m.; however, staff would like to start the activities at 7:00 p.m. Staff has contacted the Herndon Dulles Chamber of Commerce to see if they would be willing to work with the Town to promote activities for the Fourth of July.

In summary, the Director of Parks and Recreation stated the activities would essentially be the same, except that free hotdogs and free lemonade would not be provided and the music would not compete with *Friday Night Live!*. He stated Mr. Doug Downer, Chairman of *Friday Night Live!*, has indicated his willingness to work with the Town.

Councilwoman Hutchinson questioned whether shuttle buses would be provided?

The Director of Parks and Recreation stated no shuttles would be provided. He stated the Town Green and Bready Park are within walking distance of each other via the W&OD trail. Staff is also working to see if St. Joseph's Catholic Church would allow the use of their parking lot for that evening.

Following discussion, it was the consensus of Council that staff proceed with this matter.

February 4, 2003
(work session)

ROUNDTABLE

1. Councilman De Noyer:

Safeway - Councilman De Noyer questioned the status of the Safeway project.

The Director of Community Development stated staff has been in discussions with Safeway representatives regarding the cost of the street improvements.

There was brief discussion.

2. Vice Mayor Bruce:

Bestway Grocery Store - Vice Mayor Bruce questioned the status of staff's efforts regarding the Bestway grocery store HVAC units.

The Director of Community Development stated he had not received the final update from his staff; however, the last update he received was that the applicant was working on a plan to possibly move the units. Staff continues to work on enforcement of a visual screen to help alleviate the sound.

In response to a query by Vice Mayor Bruce, the Director of Community Development stated staff will continue to keep the neighbors informed of the progress.

3. Councilman Husch:

Enforcement Report Summary - Councilman Husch stated the enforcement report summary was excellent and the number of closed items shows that staff is working diligently to resolve the issues.

The Director of Community Development stated he remains optimistic about these efforts.

Mayor Thoesen stated the proposed Citizen Response Management (CRM) database system will enhance staff's efforts.

4. Mayor Thoesen:

Welcome, Stephen F. Owen, Town Manager - Mayor Thoesen welcomed Mr. Stephen F. Owen to his first official work session as Town Manager.

February 4, 2003
(work session)

COMMENTS FROM STAFF

1. Neighborhood Resources Coordinator:

Day Laborer Site - The Neighborhood Resources Coordinator stated Reston Interfaith, along with the Town, has been working with Stanley Martin Companies for the potential use of the former Herndon Lumber Site as an alternate day laborer site. She stated in cooperation with Stanley Martin Companies, Fairfax County Public Schools has donated a trailer for this purpose. Stanley Martin Companies has agreed to secure and board up any open areas of the existing structure on the site.

Mayor Thoesen stated he and the Town Manager would be meeting with Chairman Katherine K. Hanley, Fairfax County Board of Supervisors, and other Fairfax County representatives to discuss relocating the Neighborhood Resource Center to Alabama Drive.

Councilman O'Reilly questioned whether the Mayor had contacted Congressman Frank R. Wolf, 10th District-Virginia, United States House of Representatives, for support. At the Council's meeting of January 13, Congressman Wolf seemed interested in assisting the Town with this project.

Mayor Thoesen stated he would like to see the outcome of his meeting with Chairman Hanley before approaching Congressman Wolf for assistance.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:40 p.m.

Richard C. Thoesen
Mayor

Margie C. Tacci
Acting Town Clerk/Legislative Assistant

Minutes approved by Town Council: February 25, 2003

Appendix 3B

Amendment of Article I, In General, Chapter 74, Utilities, Herndon Town Code (2000)

**TOWN OF HERNDON, VIRGINIA
TOWN COUNCIL PUBLIC SESSION
TOWN COUNCIL CHAMBERS
765 LYNN STREET
JULY 13, 2004
7:30 P.M.**

Call to Order

Pledge of Allegiance to the Flag of the United States of America

**Approval of Minutes (Public Sessions: May 25, 2004 and June 8, 2004; Work
Sessions: May 18, 2004 and June 1, 2004; Swearing In Ceremony: June 17,
2004)**

Comments from the Town Manager

Comments from the Town Council

Comments from the Audience

GENERAL

04-G-75 Resolution – Adoption of Roberts Rules of Order

PRESENTATIONS

Official Recognition – Yard of the Month

04-G-76 Resolution – Expression of Appreciation to The Honorable Richard C.
Thoesen, Mayor

04-G-77 Resolution – Official Recognition – 21st Annual “National Night Out,”
August 3, 2004

PUBLIC HEARINGS

04-G-78 Site Plan – Sunset Business Park, Phase II, Town Plan #03-22

04-G-79 Conditional Use Permit – Access Office Supplies, CU #04-05

- 04-O-20 Ordinance - An ordinance granting a ten-year telecommunications franchise to XO Virginia, LLC
- 04-O-21 Ordinance - An ordinance announcing the end of the suspension of the consumer utility tax on local mobile telecommunications (cellular telephone) service and enacting and imposing this tax effective December 1, 2004
- 04-O-22 Ordinance - An ordinance amending Article I, In General, Chapter 74, Utilities, Herndon Town Code (2000), as amended, to update the definition and penalties related to storm drainage to meet federal and Virginia requirements related to Virginia Pollutant Discharge Elimination System Permit Regulations
- 04-G-80 Resolution – Approving a Revised Lease Agreement for 150 Elden Street
- 04-G-81 Resolution – Authorizing the Reserve of FY 2004 funding for capital, on-going and new or expanded projects and for outstanding Encumbrances at June 30, 2004

GENERAL

- 04-G-82 Resolution – Reappointment of Town of Herndon Member to the Northern Virginia Regional Commission
- 04-G-83 Resolution – Confirmation of the Town of Herndon Representative on the Committee for Dulles Board of Directors
- 04-G-84 Resolution – Appointment/Reappointment of Member – Planning Commission
- 04-G-85 Resolution – Appointment/Reappointment of Members – Architectural Review Board/Heritage Preservation Review Board
- 04-G-71 Resolution - Referring to the Planning Commission a Zoning Ordinance Text Amendment that Permits Low Impact Development Stormwater Management Devices to Be Located in Single-Family Detached Residential Areas and Shifts the Maintenance Responsibility of these Facilities from the Town of Herndon to the Property Owner **[Staff recommends deferral until August 2004]**
- 04-G-86 Resolution – Consideration of Request to Reduce Surety Bond – Van Buren Estates Subdivision, Town Plan #98-13

CONSENT AGENDA

- 04-G-87 Resolution – Authorizing a Suit for Injunction Against Jose D. Diaz and Nohemi Perez for Alleged Zoning Violations at 1122 Treeside Lane

- 04-G-88 Resolution – Initiating consideration of a Zoning Ordinance Text Amendment to allow for deviation of fence height in rear and side yards; ZOTA #04-05

TOWN OF HERNDON, VIRGINIA

ORDINANCE

JULY 13, 2004

Ordinance- An ordinance amending Article I, In General, Chapter 74, Utilities, Herndon Town Code (2000), as amended, to update the definition and penalties related to storm drainage to meet federal and Virginia requirements related to Virginia Pollutant Discharge Elimination System Permit Regulations.

BE IT ORDAINED by the Council for the Town of Herndon that:

1. Article I, In General, Chapter 74, Utilities, Herndon Town Code (2000), as amended, is amended and reordained as follows:

Sec. 74-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Discharge means to dispose, deposit, spill, pour, inject, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, leaked or placed by any means.

Illicit discharge means any discharge to the storm drainage (storm sewer) system that is not composed entirely of stormwater, except discharges pursuant to either a Virginia Pollutant Discharge Elimination System (VPDES) permit or discharges resulting from fire fighting activities. This definition shall not include the discharges listed in Section 74-4(a) unless the Town identifies such discharges as sources of pollutants to State water.

Pollution means such alteration of the physical, chemical or biological properties of any State waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of State waters, or a discharge or deposit of sewage, industrial wastes or other wastes to State waters by any owner which by itself is not sufficient to cause pollution, but which, in combination with such

alteration of or discharge or deposit to State waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into State waters; and (iii) contributing to the contravention of standards of water quality duly established by the Town Council, are “pollution” for the terms and purposes of this chapter.

State waters means all water, on the surface or under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands, as defined in Sec. 62.1-44.3 of the Code of Virginia.

Stormwater means stormwater runoff, snow melt runoff, surface runoff and drainage.

Virginia Pollutant Discharge Elimination System (VPDES)permit means the permit issued by the Commonwealth of Virginia to meet the requirements of the Virginia Pollutant Discharge Elimination System Permit Regulations (9VAC25-31 et seq).

Wetlands mean any tidal and nontidal wetlands that meet the unified federal definition as delineated by hydrology, soils and vegetative characteristics. See Code of Federal Regulations, Title 33, Navigation and Navigable Waters, Chapter II, Part 328, Section 3.

Sec. 74-2. Storm drainage; storm sewer system.

(a) It shall be unlawful for any person not specifically authorized by the town manager to do so, to remove a manhole cover or catch basin or grate inlet cover or to make any connections with, or any opening into, use, alter, disturb, or otherwise interfere with any manhole, catch basin, grate, inlet or other structure which is a part of the public storm drainage (storm sewer) system.

(b) It shall be unlawful for any person to deposit into any open watercourse or gutter or pipe or other drainage structure, any rocks, logs, dirt, paper, branches, leaves, grass or any other material capable of causing a stoppage or disrupting the flow of storm or rainwater or otherwise adversely affecting the hydraulic capacity of the watercourse or drainage structure.

Sec. 74-3. Penalty for violation of chapter.

Any person who violates or causes to be violated any provision of this chapter or any rule or regulation promulgated pursuant to this chapter shall be guilty of a class 1

misdemeanor. Each day that such violation is committed, and each day that such violation is permitted to remain uncorrected, shall constitute a separate offense.

Sec. 74-4. Discharges to the Storm Drainage (Storm Sewer) System.

(a) It shall be unlawful to cause or allow illicit discharges to the storm drainage (storm sewer) system or to State waters. Subject to the provisions of paragraph (d) below, the following activities shall not be considered illicit discharge:

- (1) Water line flushing;
- (2) Landscape irrigation;
- (3) Diverted stream flows or rising groundwaters;
- (4) Infiltration of uncontaminated groundwater;
- (5) Pumping of uncontaminated groundwater;
- (6) Discharges from potable water sources, foundation drains, irrigation water, springs, water from crawl spaces or footing drains;
- (7) Air conditioning condensation;
- (8) Lawn watering;
- (9) Residential car washing;
- (10) Dechlorinated swimming pool discharges; and
- (11) Public street washing.

(b) The prohibition in (a) above shall not apply to any non-stormwater discharge permitted under a VPDES permit or waiver, provided that the discharge is in full compliance with all requirements of the VPDES permit as well as any other applicable laws or regulations pertaining to the discharge.

(c) It shall be unlawful to connect, or cause or allow to be connected, to the storm drainage (storm sewer) system or State waters, without a VPDES permit, any structure that conveys any liquid other than stormwater or discharges listed in paragraph (a) of this section, including but not limited to pipes, drains, sanitary sewer lines, washing machine drains, or floor drains. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of the connection.

(d) If any activity listed in paragraph (a) of this section is found by the authorized agent to be a source of pollution to State waters, the discharge shall be considered illicit and the authorized agent shall serve a written notice in accordance with Sec. 74-6.

Sec 74-5. Inspecting and monitoring stormwater discharge.

The authorized agent shall have the authority to inspect and monitor discharges and sources of potential discharge to the storm drainage (storm sewer) system to ensure compliance with this article, including the authority to enter upon private property to inspect or monitor such discharges or sources of potential discharge. The authorized agent shall also have the authority to initiate enforcement action in accordance with section 74-6.

Sec. 74-6. Penalties for violations of article.

(a) If the Town determines that there is an illicit discharge, notice shall be served upon the property owner of record by registered or certified mail to the address of the property owner of record. The notice shall specify the time within which corrective measures shall be completed. Failure to comply within the time specified shall be deemed to be a violation of this chapter subject to the penalties outlined herein.

(b) Any person who violates any provision of this chapter shall be responsible for testing, containing, cleaning up, abating, removing and disposing of any substance unlawfully discharged into the storm drainage (storm sewer) system or into State waters, or, if the authorized agent determines using recognized engineering standards that correction of the violation can best be accomplished by the Town, shall be liable to the town for all costs of testing, containment, cleanup, abatement, removal and disposal of any substance unlawfully discharged into the storm drainage (storm sewer) system or into State waters.

2. This ordinance shall be effective on and after the date of the date of adoption.

Appendix 3D

Household Hazardous Waste (HHW)

The Fairfax County Household Hazardous Waste Program is operated at the I-66 Transfer Station and the I-95 Landfill. The I-66 Transfer Station is the closest facility to the Town of Herndon. The Transfer Station is located at 4618 West Ox Road. Coming from Herndon on West Ox Road, the facility is on the right just past the County's Fire Training Academy and before the Costco store.

The I 95 Landfill is located off of Route 1 in southern Fairfax County at 9850 Furnace Road.

Operating hours for HHW vary at each site as follows.

I-66 TRANSFER STATION

Thursday: 1:00 PM - 5:00 PM

Friday: 8:00 AM - Noon

Saturday: 9:00 AM - 4:00 PM

I-95 LANDFILL

Thursday: 8:00 AM - Noon

Friday: 1:00 PM - 5:00 PM

Saturday: 9:00 AM - 4:00 PM

PLEASE DO NOT LEAVE WASTE AT HHW SITES EXCEPT DURING HOURS OF OPERATION

The following items are accepted at both locations:

- acids
- aerosol sprays
- asbestos products Call 703-324-5230 for a list of acceptable asbestos products
- automotive fluids
- batteries (see below)
- coal tar products
- creosote products
- driveway sealers
- floor care products
- fungicides
- glue (solvent base)
- herbicides
- inks & dyes
- insecticides
- mercury products
- moth balls
- paint (oil base)
- paint thinner
- pesticides

poisons
polishes
pool chemicals
rust removers
varnish & stains
weed killers
wood preservatives

Please transport household hazardous waste to the collection centers in cardboard boxes. All materials must be properly labeled. **Do not** put waste in plastic trash bags.

Auto batteries, motor oil & antifreeze accepted separately 7 days a week at the Citizen's Disposal Facility.

Button, rechargeable (NiCAD), mercury and lithium batteries are the **ONLY** household batteries accepted by this program. All other batteries may be safely thrown away with your regular waste.

Items that can be poured down the drain inside your home, NOT a storm drain:

ammonia based cleaners (Windex[®], Glass Plus[®], etc.)
drain cleaners (Drano[®], Liquid Plumber[®], etc.)
most bathroom cleaners (Pine Sol[®], etc.)
medicines*
diluted mixes photographic chemicals (developers, fixers, etc.)

***NOTE!** Medical Facilities including nursing homes, adult daycare centers, etc., should establish internal policies to collect and have contract disposal of unused medications. However small quantities from INDIVIDUALS are allowable in the sanitary sewer system.

Items that may be disposed along with the regular trash:

fertilizers (lawn and garden, tree spikes, etc.)
latex paints (DRIED)
empty containers of any kind
alkaline & carbon zinc household batteries
smoke alarms
legal fireworks/flares (thoroughly soak in water first)

Waste NOT accepted:

ammunition - contact Police Dept. **703-246-2253**
illegal fireworks - contact Fire Prevention Division **703-246-4741**
explosives
radioactive materials
compressed gas cylinders
medical/infectious waste

For disposal information on items not listed above, please call the Fairfax County,

Division of Solid Waste Disposal & Resource Recovery at **703-324-5230**, TTY **1-800-828-1120**.

Appendix 4A

Maintain DCR Erosion and Sediment Control Program Consistency

List of Inspectors and Certificate Expiration Dates

Sheri Porter: Inspector: #1257; expiration 31 May 06

Plan Reviewer: #220; expiration 30 Nov 06

Kwame Amoah: Inspector: #2232; expiration 6/1/05

Appendix 4C

Report the number of regulated land disturbing activities and total disturbed acreage

January 21, 2004

Mr. Gary Switzer
Virginia Department of Conservation and Recreation
98 Alexandria Pike, Suite 33
Warrenton, Virginia 20186

RE: Herndon Nonpoint Source Pollution Survey – Calendar Year 2003

Dear Mr. Switzer:

In response to your request to provide disturbed acreage totals for 2003, I submit the following:

<u>PROJECT</u>	<u>DEVELOPMENT</u>	<u>WATERSHED</u>	<u>ACREAGE</u>
Alabama Drive	Public Improvement	Sugarland Run	0.2
Grant St Square	Commercial	Sugarland Run	1.0
Grove Street Phase II	Public Improvement	Sugarland Run	6.2
Gunning Property	Residential	Sugarland Run	0.2
Herndon Golf Course	Commercial	Sugarland Run	1.8
Herndon Harbor House	Residential	Sugarland Run	1.4
Herndon-Reston Self Storage	Commercial	Sugarland Run	1.8
H&S Plumbing	Commercial	Sugarland Run	0.8
Monroe Place	Residential	Sugarland Run	2.6
Montessori School	Commercial	Sugarland Run	1.0
New Dominion Tech Park II	Commercial	Sugarland Run	13.8
Oxford Square	Commercial	Sugarland Run	0.6
Resource Bank	Commercial	Sugarland Run	0.5
Royal Elm Estates	Residential	Sugarland Run	3.8
Runnymede Manor II	Residential	Sugarland Run	4.1
Sadie Square	Residential	Sugarland Run	1.5
St Joseph's Catholic Church	Commercial	Sugarland Run	5.0
St Timothy's Episcopal Church	Commercial	Sugarland Run	2.5
VEPCO Maintenance Building	Commercial	Sugarland Run	0.4
VEPCO Substation	Commercial	Sugarland Run	1.5
Village at Herndon Mills	Residential	Sugarland Run	7.8
Wachovia Bank Drive-thru	Commercial	Sugarland Run	0.1
<u>Total</u>			
Sugarland Run			58.6
Horsepen Run			0

Sincerely,
Zoran Dragacevac, PE
Senior Civil Engineer

c: Director of Public Works
Engineer
Engineering Technician K. Amoah

Appendix 5B Eliminate opt-out provisions in the Town CBPO



Copies of audio and video recordings of meetings of the Herndon Town Council (except work session meetings) are available for review and can be purchased upon request. Please call 703-435-6804 or 703-435-6817 (TDD).

HERNDON TOWN COUNCIL

Tuesday

February 10, 2004

The Town Council met in public session on Tuesday, February 10, 2004, at 7:00 p.m. in the Council Chambers, 765 Lynn Street. In attendance were:

Mayor:

Richard C. Thoesen

Councilmembers:

Carol A. Bruce
John M. De Noyer
Dennis D. Husch
Connie H. Hutchinson
Michael L. O'Reilly
Harlon Reece

Town Manager:

Stephen F. Owen

Town Attorney:

Richard B. Kaufman

Town Clerk:

Viki L. Wellershaus

Acting Deputy Town Clerk:

Margie C. Tacci

Chief of Police:

Toussaint E. Summers, Jr.

Director of Community Development:

Henry G. Bibber

Director of Finance:

Mary K. Tuohy

Director of Human Resources:

Linda A. Simmons

Director of Information Technology:

William H. Ashton, II

Director of Public Works:

Robert B. Boxer

Zoning Administrator/ Senior Planner:

Elizabeth M. Gilleran

Comprehensive Planner:

Michelle M. O'Hare

Planner:

Dana C. Stidham

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Public Information Officer:
Robin A. Runser
Herndon Police:
Lieutenant Earl H. Sheffer
Community Forester
John L. Dudzinsky

The meeting was called to order at 7:00 p.m., with all members being present and with Mayor Thoesen presiding. Mayor Thoesen led the audience in the Pledge of Allegiance to the Flag of the United States of America.

1. ANNOUNCEMENTS

Mayor Thoesen announced that the Town Council's regularly scheduled public session on January 27 was cancelled due to inclement weather conditions. All items were rescheduled to February 10, with presentations beginning at 7:00 p.m.

2. APPROVAL OF MINUTES

Vice Mayor Bruce moved approval of the minutes for the Town Council's public sessions of December 9, 2003 and January 13, 2004; and the work sessions of January 6 and January 20, 2004. This motion was seconded by Councilman O'Reilly and carried by a vote of 7-0. The vote was:

Councilmembers:

Bruce	yes
De Noyer	yes
Husch	yes
Hutchinson	yes
O'Reilly	yes
Reece	yes
Mayor Thoesen	yes

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3. **COMMENTS FROM THE TOWN MANAGER**

Good News – Mr. Owen highlighted several letters and emails that staff had recently received which exemplify Town employees.

- A letter from Mrs. Helene Gorayeb expressing her appreciation to the Herndon Police for going the “extra mile.” Her brother, who lives out of state, had been trying unsuccessfully to contact her by phone. Finally, he contacted the Herndon Police, who sent officers out to make sure she was okay and to let her know her brother had been trying to contact her. She said the officers were courteous, kind, and concerned and “it gives her great comfort to know that in an emergency, we are there to help.”
- An e-mail from Mr. Charlie Waddell, of Dumbarton Square, commending the Public Works staff for once again meeting and exceeding expectations. Mr. Waddell stated that when he woke up on Monday morning, he was a little surprised to find that his street had already been plowed and trash pickup was proceeding on schedule. Mr. Waddell expressed his appreciation and congratulations on a job well done and wanted staff to know that, “Your continuing high level of service and commitment to our community help make our Town a special place.”
- A letter from Mr. Dennis Hill, Director of the Fairfax County Department of Health, expressing his appreciation to Darlene A. Thompson, Assistant to the Town Manager, and Margie C. Tacci, Acting Deputy Town Clerk, for their help and hospitality in coordinating a retreat held in the Council Chambers. Mr. Hill stated that for many members of his staff -- Herndon was a new and enjoyable experience, and he had received several compliments about how nice and visually appealing Herndon is. Mr. Hill stated that he wanted to let us know that we have the “most gracious and helpful people” working for the Town.

Congratulations to Cindy Roeder - Mr. Owen announced that Cindy Roeder, Manager of Recreation Services, was selected for Montgomery County’s “Best Honor” Award in the NACo Achievement award category. Prior to coming to Herndon this past June, she was employed as a Program Manager with the Montgomery County Recreation Department in Silver Spring, Maryland. She was also the Superintendent of Recreation with the Frederick County Parks and Recreation Department in Winchester, and a Recreation Coordinator with the Town of Herndon from 1987-1989. This award is a result of a team effort which she spearheaded to develop and implement a middle school initiative, and not only recognizes her work in Montgomery County, but is also representative of the work she is bringing to the Town.

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4. COMMENTS FROM THE TOWN COUNCIL

Expression of Appreciation, The Honorable Frank R. Wolf – Mayor Thoesen expressed his appreciation to The Honorable Frank R. Wolf, 10th District-Virginia, United States House of Representatives, for his efforts in securing \$1 million for the 10th District Gang Task Force, and an additional amount of \$280,000 for gang education prevention programs.

5. ORDER OF AGENDA

With the concurrence of Council, Mayor Thoesen stated the Council would next proceed with the scheduled presentations, and then proceed with “Comments from the Audience.”

6. PRESENTATIONS

Resolution 04-G-12, Expression of Appreciation to The Honorable Stuart Mendelsohn for More Than Ten Years of Dedicated Public Service.

(Note: The presentation was originally scheduled on Tuesday, January 27, however, that meeting was cancelled due to inclement weather conditions and all items were rescheduled to February 10.)

Councilman Reece moved approval of Resolution 04-G-12, which:

- Expresses appreciation to The Honorable Stuart Mendelsohn for his unwavering dedication and incomparable service to the citizens of our community; and
- Wishes him every success in his future endeavors and a long, happy, and fulfilling life.

This motion was seconded by Vice Mayor Bruce.

Councilman Reece stated it would be impractical to recite all the contributions Mr. Mendelsohn made over the years to the citizens of the Dranesville community and to the Town of Herndon. He stated Mr. Mendelsohn is an example for all elected officials to follow. He expressed his personal appreciation for all he has done for the community.

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Councilman Husch expressed his appreciation to Mr. Mendelsohn for his many contributions to the quality of life citizens of Herndon enjoy, especially in the area of traffic patterns in and around Herndon.

Councilman De Noyer expressed his appreciation to Mr. Mendelsohn for his contributions in water quality protection and resource conservation, which provide long term quality of life and economic benefits to everyone.

Councilwoman Hutchinson expressed her appreciation to Mr. Mendelsohn and stated he has been an excellent example of what a representative of the people should be.

Councilman O'Reilly expressed his appreciation to Mr. Mendelsohn for the many contributions he has given to the Herndon community.

Vice Mayor Bruce stated Mr. Mendelsohn has truly set the standard for what a supervisor's service to the district and the county should be, and she expressed her appreciation to him for all his contributions.

Mayor Thoesen stated Mr. Mendelsohn is a man of great honor who taught him a lot and it has been a pleasure working with him.

The question was called on the motion, which carried by a vote of 7-0. The vote was:

Councilmembers:

Bruce	yes
De Noyer	yes
Husch	yes
Hutchinson	yes
O'Reilly	yes
Reece	yes
Mayor Thoesen	yes

Mayor Thoesen recognized Mr. Mendelsohn, his wife, Laura, and their children, Michelle and Sarah.

Others present for the presentation included:

- Honorable Joan M. DuBois, Dranesville District Supervisor;
- Honorable Judith W. Downer, Commissioner, Planning Commission, Town of Herndon;

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- Honorable Jane Kamps Strauss, Dranesville District Representative, Fairfax County School Board;
- Mrs. Vicky Dorman, Legislative Aide, Dranesville District;
- Ms. Jeanie Schmidt, President, Herndon Free Clinic;
- Ms. Roxanne Ridley;
- Mr. John Dudzinsky, Community Forester;
- Ms. Linda Lammerson, Board Member, Fairfax County Partnership for Youth;
- Ms. Ronnie Rider; and
- Ms. Tania Kunha.

Ms. Ridley expressed her appreciation to Mr. Mendelsohn for his many efforts on behalf of people with disabilities in Fairfax County.

Ms. Schmidt expressed her appreciation to Mr. Mendelsohn for his contributions and his volunteer efforts to the Herndon Free Clinic. She stated if not for his efforts, the Herndon Free Clinic would not have become a reality.

Mr. Jim Deuel, Past Chairman of the Board, Herndon Dulles Chamber of Commerce announced that on Saturday, February 7, at the Herndon Dulles Chamber of Commerce Annual Awards Gala, Mr. Mendelsohn was named Community Citizen of the Year and he expressed his appreciation to him for all his contributions throughout the years.

Mayor Thoesen, Vice Mayor Bruce, and Councilman De Noyer formally presented the framed resolution to the Mr. Mendelsohn.

Mr. Mendelsohn expressed his appreciation to Mayor Thoesen, members of the Town Council, and those in the audience for the many kind words. He expressed his gratitude to Mrs. Dorman for her endless efforts in his Herndon office, and to his entire staff, including Mr. Brian Winterhalter, for their efforts throughout the years.

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04-G-12 Resolution, Expression of Appreciation to The Honorable Stuart Mendelsohn for More Than Ten Years of Dedicated Public Service.

WHEREAS, the Honorable Stuart Mendelsohn has been a resident of Fairfax County for more than 28 years, and of the Dranesville District for more than 25 years; and

WHEREAS, he graduated from the George Mason University School of Law, and also holds a Bachelor of Science degree in Ocean Engineering and a Master's degree in Environmental Engineering from the Florida Institute of Technology; and

WHEREAS, he first assumed public office in 1993, when he was appointed Dranesville District Representative to the Fairfax County School Board, where he rose to the position of Vice Chair, and in November 1995, was elected Dranesville District Representative to the Fairfax County Board of Supervisors and assumed office in January 1996; and

WHEREAS, as the Dranesville District Supervisor, his leadership helped facilitate county/town partnerships on such projects as Herndon Harbor House, the Herndon Neighborhood Resource Center, the Fortnightly Boulevard Plan, and the Chandon Dog Park; and

WHEREAS, his efforts on county-wide projects--including the completion of the Fairfax County Parkway to Route 7 and the grade-separated interchange at Elden Street, the extension of Wiehle Avenue, and improvements and connections to district-wide trail systems such as the Folly Lick Stream Valley and Sugarland Stream Valley trails--have helped to improve the quality of life for the Herndon community; and

WHEREAS, he championed and helped to establish the Herndon Free Clinic; and

WHEREAS, he worked closely with youth sports groups to establish two soccer fields at Dulles Green and move forward the master plan for the Hutchison Elementary School Sports Field Complex; and

WHEREAS, he supported parks, natural area conservation, and outdoor environmental quality and the application of sound ecological principles as Chair of the Board of Supervisors Environmental Committee and the Tree Preservation Task Force, and as a member of the Chesapeake Bay Local Assistance Board; and

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WHEREAS, he sponsored the "2000 Trees by 2000," program, which resulted in thousands of trees being planted throughout the Dranesville District; and

WHEREAS, he devoted countless hours of volunteer service to many organizations at the local, state, and national levels, including the Kiwanis, Special Olympics, and Boy Scouts; and

WHEREAS, he was recognized for his expertise and outstanding achievements as the recipient of the Individual Public Service Award from Leadership Fairfax, Incorporated; and

WHEREAS, he decided not to seek reelection in 2003 in order to return to the full-time practice of law and to spend more time with his family; and

WHEREAS, his leadership and expertise will be missed by the Town Council, Town staff, and citizens of the Town of Herndon.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby expresses its sincere appreciation to The Honorable Stuart Mendelsohn for his unwavering dedication and incomparable service to the citizens of our community; and

BE IT FURTHER RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby wishes him every success in his future endeavors and a long, happy, and fulfilling life.

Resolution 04-G-13, Official Recognition, Congratulating the Herndon High School Girls' Cross Country Team on their First Place Finish in the Virginia AAA State Championship.

(Note: The presentation was originally scheduled on Tuesday, January 27, however, that meeting was cancelled due to inclement weather conditions and all items were rescheduled to February 10.)

Councilwoman Hutchinson moved approval of Resolution 04-G-13, which:

- Congratulates the Herndon High School Girls' Cross Country Team for their first Virginia AAA State Championship and wishes the Team much success in its future competitions;

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- Wishes to the “graduating senior five” - Kristin Hart, Heather Fisher, Jenny Miller, Jessie Erickson, and Carleigh Gregory - who have shown outstanding leadership by mentoring the upcoming runners and through their positive outlook and dedication to the sport, much success in their future endeavors; and
- Expresses appreciation to Coach Mahoney and Assistant Coaches Seavey and Sherry for their exceptional coaching and positive influence on the youth of our community.

This motion was seconded by Councilman Husch.

Councilwoman Hutchinson expressed her appreciation to the entire team, coaching staff, and parents for their dedication to the sport.

Mayor Thoesen expressed his congratulations to the team and stated the Town is very proud of the athletes and their victory.

The question was called on the motion, which carried by a vote of 7-0. The vote was:

Councilmembers:

Bruce	yes
De Noyer	yes
Husch	yes
Hutchinson	yes
O'Reilly	yes
Reece	yes
Mayor Thoesen	yes

Mayor Thoesen formally presented the framed resolution to the following individuals, who were present for the presentation:

Team Members

- Ms. Meghan Ashworth;
- Ms. Jessie Erickson;
- Ms. Heather Fisher;
- Ms. Carleigh Gregory;
- Ms. Kristin Hart;

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- Ms. Bailey Jensen;
- Ms. Meghan Keeling;
- Ms. Colleen Lear;
- Ms. Jenny Miller; and
- Ms. Sara Sieb.

Coaches

- Coach Mike Mahoney;
- Assistant Coach Sinclair Adam Seavey; and
- Assistant Coach Peter Sherry.

Principal

- Ms. Janice Leslie.

Athletic Director

- Mr. Bill Hildbold.

Coach Mahoney expressed his appreciation to Mayor Thoesen and Council for inviting the team to the meeting this evening and stated it was their honor to be present. He expressed his appreciation to Coaches Seavey and Sherry for the wonderful example they set for the team. He expressed his appreciation to Ms. Leslie and Mr. Hildbold for the support they provide the team.

Ms. Janice Leslie added that the grade point average for this team is a 3.78.

04-G-13 Resolution, Official Recognition, Congratulating the Herndon High School Girls' Cross Country Team on their First Place Finish in the Virginia AAA State Championship.

WHEREAS, the Herndon High School Girls' Cross Country Team and their coaches worked together with determination and resolve to effectively compete throughout the year; and

WHEREAS, on November 8, 2003, the team captured the Virginia AAA State Championship at Great Meadows in The Plains, Virginia; and

WHEREAS, this title sets a precedent for Herndon High School, as the Cross Country Team is the first girls' athletic team to win a state title in the history of the school; and

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WHEREAS, the outstanding leadership of Coach Mike Mahoney and Assistant Coaches Sinclair Adam Seavey and Peter Sherry provided the guidance and confidence that led to the championship.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby congratulates the Herndon High School Girls' Cross Country Team for their first Virginia AAA State Championship and wishes the Team much success in its future competitions.

BE IT FURTHER RESOLVED that the Town Council of the Town of Herndon, Virginia hereby wishes to the "graduating senior five" - Kristin Hart, Heather Fisher, Jenny Miller, Jessie Erickson, and Carleigh Gregory - who have shown outstanding leadership by mentoring the upcoming runners and through their positive outlook and dedication to the sport, much success in their future endeavors.

BE IT FURTHER RESOLVED that the Town Council of the Town of Herndon, Virginia hereby expresses its appreciation to Coach Mahoney and Assistant Coaches Seavey and Sherry for their exceptional coaching and positive influence on the youth of our community.

Resolution 04-G-14, Official Recognition, Congratulating Mr. Peter Sherry on His First Place Finish in the 28th Annual Marine Corps Marathon.

(Note: The presentation was originally scheduled on Tuesday, January 27, however, that meeting was cancelled due to inclement weather conditions and all items were rescheduled to February 10.)

Councilman Husch moved approval of Resolution 04-G-14, which:

- Congratulates Mr. Peter Sherry on his first place finish in the ***28th Annual Marine Corps Marathon***; and
- Expresses appreciation to Mr. Sherry on his efforts to enhance and promote a positive influence for the youth of our community and wishes him the best of luck in his future marathons.

This motion was seconded by Councilman De Noyer.

Councilman Husch stated Mr. Sherry is a true example of not only an athlete but an individual who gives back to the community in an immeasurable way, and he expressed his congratulations to him on his endeavors.

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Councilman O'Reilly commended Mr. Sherry on his win and the dedication required to run at such a level.

Mayor Thoesen stated Mr. Sherry is a world-class athlete and wished him the best of luck in the future.

The question was called on the motion, which carried by a vote of 7-0. The vote was:

Councilmembers:

Bruce	yes
De Noyer	yes
Husch	yes
Hutchinson	yes
O'Reilly	yes
Reece	yes
Mayor Thoesen	yes

Mayor Thoesen and Councilman Husch formally presented the framed resolution to Mr. Sherry, who was present for the presentation.

04-G-14 Resolution, Official Recognition, Congratulating Mr. Peter Sherry on his First Place Finish in the 28th Annual Marine Corps Marathon.

WHEREAS, an alumnus of Georgetown University, Mr. Peter Sherry has devoted his career to coaching others and is currently the Assistant Coach of the Herndon High School Girls' Cross Country Team, which captured the Virginia AAA State Championship at Great Meadows in The Plains, Virginia; and

WHEREAS, Mr. Sherry's ultimate goal is to compete in the Olympic Games, and through his hard work, patience, and focus, he recently qualified for the 2004 Olympic 5,000-meter, 10,000-meter, and marathon trials; and

WHEREAS, Mr. Sherry has participated in three marathons, including the New York Marathon, and has successfully completed two, which is a reflection of his resolve and dedication to cross country running; and

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WHEREAS, on Sunday, October 26, 2003, Mr. Sherry won first place in the *28th Annual Marine Corps Marathon* by covering 26.2 miles throughout the Washington, D.C. area in two hours, twenty-five minutes, and seven seconds.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby congratulates Mr. Sherry on his first place finish in the *28th Annual Marine Corps Marathon*.

BE IT FURTHER RESOLVED that the Town Council of the Town of Herndon, Virginia hereby expresses its appreciation to Mr. Sherry on his efforts to enhance and promote a positive influence for the youth of our community and wishes him the best of luck in his future marathons.

Resolution 04-G-17, Official Recognition, Commemorating the 65th Anniversary of the Herndon Woman's Club, February 10, 2004.

Vice Mayor Bruce moved approval of Resolution 04-G-17, which:

- Congratulates The Herndon Woman's Club on the occasion of its sixty fifth anniversary; and
- Commends The Herndon Woman's Club on their active involvement and valuable contributions to the quality of life in our community and extends best wishes for continued success in the future.

This motion was seconded by Councilman O'Reilly.

Vice Mayor Bruce stated that 65 years is an incredible record and the work the Herndon Woman's Club does still amazes her. She stated she hopes the organization will be around for at least another 65 years for the good of the community.

Councilman Husch stated that for purposes of political accuracy, a WAC is a member of the Women's Army Corp., of which his mother is a member.

Councilman Reece stated the Herndon Woman's Club is a very important part of the fabric of our Town and stated it was good that the time has been taken to recognize the organization and its extremely impressive record of service.

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Councilwoman Hutchinson stated each individual woman in the Club contributes in her own way, but when they join together, there is not anything that cannot be accomplished. She expressed her appreciation to them for their leadership and spirit.

Mayor Thoesen expressed his appreciation to the Herndon Woman's Club for their wonderful leadership and their ability to keep our community strong.

The question was called on the motion, which carried by a vote of 7-0. The vote was:

Councilmembers:

Bruce	yes
De Noyer	yes
Husch	yes
Hutchinson	yes
O'Reilly	yes
Reece	yes
Mayor Thoesen	yes

Mayor Thoesen and Vice Mayor Bruce formally presented the framed resolution to Ms. Pat Stark, President, Mrs. Elma Mankin, and other representatives of the Club, who were present for the presentation.

Ms. Stark, on behalf of the members of the Herndon Women's Club, stated it is a joy and a privilege to work for the great community of Herndon and they look forward to the next 65 years of building an even better Herndon.

04-G-17 Resolution, Official Recognition, Commemorating the 65th Anniversary of the Herndon Woman's Club, February 10, 2004.

WHEREAS, in February 1939, the chairman of the Virginia Federation of Junior Women's Clubs met with eighteen young women from the Herndon area to organize a club, known as "The Young Women's Club of Herndon," which was sponsored by the Fortnightly Club of Herndon; and

WHEREAS, The Young Women's Club of Herndon changed its name in 1945 to "The Herndon Woman's Club"; and

WHEREAS, the mission of The Herndon Woman's Club is to unite women of our community for the purpose of mutual benefit, and for the promotion of their common interest in education, public welfare, philanthropy, moral values, civics, and fine arts; and

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WHEREAS, early in its organization, the club assisted other clubs and organizations in welfare work in the community, and helped bear the expenses of keeping the Fortnightly Library open in the evenings; and

WHEREAS, during World War II, club members gave their personal services in making surgical dressings for the local Red Cross, canvassed the Town for homes to offer sleeping and eating accommodations in case of air raid, joined some nursing classes, made contributions to the Emergency Hospital Fund and the State Ambulance Fund, purchased wool for Red Cross knitting, furnished a WAC living room at Arlington Hall, and purchased war bonds; and

WHEREAS, since its organization, the club's generous support and contributions have continued to benefit our local schools, many community organizations and programs and while their outstanding accomplishments are too many to list, they have been documented in a history of the club, authored by Ms. Elma M. Mankin, a longstanding member and the club's historian; and

WHEREAS, the active involvement and outstanding accomplishments of The Herndon Woman's Club throughout the years have helped to improve the quality of life for all residents of Herndon.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby congratulates The Herndon Woman's Club on the occasion of its sixty fifth anniversary.

BE IT FURTHER RESOLVED that the Town Council of the Town of Herndon, Virginia hereby commends The Herndon Woman's Club on their active involvement and valuable contributions to the quality of life in our community and extends best wishes for continued success in the future.

Certificates of Responsible Citizenship to Members of the Herndon Police Citizens Support Team for Certification in the Community Emergency Response Team (CERT) Pilot Program.

Toussaint E. Summers, Jr., Chief of Police, expressed his appreciation to the Town Council for their continued support and recognition of the Herndon Police Department's efforts to recognize members of the community who have taken the extra step to assist the Herndon Police in keeping the community safe. The partnership between the Herndon Police and the citizens is very important. He

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stated the individuals being honored this evening have gone beyond the call of duty not only in partnering with the Herndon Police but with their combined efforts to ensure and promote quality service to all of our citizens.

Chief Summers introduced Lieutenant Earl H. Sheffer, police liaison to the Herndon Police Citizens Support Team. Lieutenant Sheffer provided a brief background and description on the “***Community Emergency Responders Pilot Program.***” The program trains volunteers as first responders and prepares them to handle all types of emergency situations and disasters. There are numerous hours of rigorous training, both classroom and field training exercises, provided by the Fairfax County Fire Department.

He commended the following representatives of the Herndon Police Citizens Support Team, who were present for the presentation:

- Ms. Donna Ennis;
- Mr. Fred Kibler;
- Mr. George Lake;
- Mr. Guy Masters; and
- Mr. Hal Singer.

Mayor Thoesen and Councilman O'Reilly formally presented the Certificates of Responsible Citizenship to the representatives of the Herndon Citizens Support Team, who were present for the presentation.

Chief Summers stated the Herndon Citizens Support Team spend countless hours each week patrolling the streets in their own vehicles. He expressed his appreciation to the spouses and significant others of the members of the Team for their understanding and support.

Mr. Masters stated he is the original charter member of the Herndon Police Citizens Support Team (HPCST) and has been involved with the Team for 27 years. He expressed his appreciation to the Town Council and the Police Department, and stated the HPCST's success is due to their support.

7. COMMENTS FROM THE AUDIENCE

Kudos, Department of Public Works - Mrs. Janet Moore, 1012 Grant Street, Herndon, expressed her appreciation to the Department of Public Works for their efforts in preparing the caboose for the 125th Anniversary celebration. Her late

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husband, George Moore, headed the committee to bring the caboose to Herndon. She expressed her appreciation to Sonny Lynch, Superintendent, for his choice of stone which holds the dedication plaque; Hershel "Bo" K. Kirk, Utility Work Crew Supervisor, and John E. Johnson, Facility Maintenance Mechanic II, for their efforts in repairing the caboose. She expressed her appreciation to Vice Mayor Bruce and John L. Dudzinsky, Community Forester, for arranging to have the bench located near the caboose.

Miscellaneous Issues - Ms. Betty Valley, 639 Oak Street, Herndon, expressed her appreciation to the Planning Commission for voting for new regulations in R-10 districts. She expressed her appreciation to members of Council for considering the concerns of residents and problems created with developers who want to build high density housing. She requested residents in Town to clear sidewalks near their property following snow storms in order to make walking safer. She questioned how ethical it was for Councilmembers to take part in the production of Scrooge when Stanley Martin Corporation was the main contributor and is currently in the process of seeking rezoning of property in Town? She stated she does not believe Councilmembers could be bribed, but she does believe it is possible to be unduly influenced by contributions.

Vice Mayor Bruce stated Stanley Martin Corporation is a good corporate citizen that supports the endeavors that take place in Herndon. The contribution Ms. Valley referred to was to the Elden Street Players Children's Theater and had nothing to do with Councilman Reece, as was implied.

Councilman Reece stated he played a part in the production of Scrooge and was unaware that Stanley Martin Corporation purchased an advertisement for the program. He stated he was asked to play the part and accepted because it was for children. He assured Ms. Valley that his vote could not be bought and offered an open door policy to her if she ever had any questions.

Virginia Main Street Affiliation - Mrs. Betty Hatfield, 414 Madison Forest Drive, Herndon, stated she received a letter dated February 2, from the Department of Housing and Community Development (DHCD) congratulating the Town on being accepted as a DHCD Commercial District Affiliate. She stated, as the contact person, she looks forward to working with all interested parties to build upon downtown Herndon's many existing assets to become an attractive commercial center with successful diverse businesses that will enhance the downtown's identity as a designation for community activities. She expressed her appreciation to the Downtown Business Council of the Herndon Dulles Chamber of Commerce for their support.

Legislation - Mr. William B. Tirrell, Sr., 1016 Page Court, Herndon, requested Council to be proactive and provide citizens with updates on the status of

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legislature being heard in the Virginia Assembly in Richmond that pertains to issues in Town such as: illegal aliens and unidentified people (HB570), meals and lodging taxes (HB412), and cell phone taxes (SB316).

Mayor Thoesen expressed his support for Vice Mayor Bruce and Councilman Reece. He stated it is not easy to sit on the dais and part of doing so requires the ability to take criticism. He expressed his appreciation to all citizens who come to the microphone and have the courage to speak out.

Councilman Husch stated Councilmembers are required to do financial reporting which becomes public record. He indicated there are several bills in the Virginia Assembly that are being watched very closely by Councilmembers and he is confident that the right outcome will occur.

8. PUBLIC HEARINGS

Ordinance 04-O-05, Zoning Ordinance Text Amendment, ZOTA #03-01, Chapter 78 (ZONING), Article X, Chesapeake Bay Preservation Regulations; and

Subdivision Ordinance Text Amendment, SOTA #03-01, Chapter 70 (SUBDIVISION ORDINANCE), Chesapeake Bay Preservation Regulations.

(Note: The public hearing on this item was originally scheduled on Tuesday, January 27, however, that meeting was cancelled due to inclement weather conditions and all items were rescheduled to February 10.)

Certificates of Publication were filed from the Editor of the *Herndon Observer* newspaper showing that notice of said public hearing had been duly advertised in the January 9 and January 16, 2004 issues.

Michelle M. O'Hare, Comprehensive Planner, presented the staff report dated January 20, which is on file in the Town Clerk's office. The proposed ordinance text amendments are outlined as follows:

Subdivision Ordinance Text Amendment, SOTA #03-01:

- Changes Section 70-49 (Requirements), by adding the delineation of Resource Protection Areas as a requirement for subdivision plans; and
- Adds Section 70-160 to require Resource Protection Areas be shown on record plats.

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Zoning Ordinance Text Amendment, ZOTA #03-01:

- Revises the Chesapeake Bay Preservation Area Overlay District, Chapter 78, Article X in accordance with adopted revisions to the Virginia Code; and
- Amends Section 78-363, Required Information, to add the delineation of Resource Protection Areas as a requirement for site plan submissions.

The proposed changes are mandated by Virginia law.

Ms. O'Hare stated the Chesapeake Bay Preservation Area Designation and Management Regulations were amended at the state level in December 2001. Accordingly, localities in Tidewater Virginia, which includes Herndon, must amend its Chesapeake Bay Regulations. The deadline for localities to revise their ordinances to become consistent with the new language was December 31, 2003. Following adoption of the proposed ordinance, The Chesapeake Bay Local Assistance Board will review the ordinance and determine if it is compliant with the amended regulations. Attachment 2 of the staff report provides a step-by-step process for different land development scenarios. Attachment 3 outlines the amendments by section.

The main purpose of the amendments is to strengthen the definition of the Resource Protection Area (RPA) and limit development within its boundary. The amendments provide a precise definition for a RPA. It is now identified as a 100 foot buffer area that is 1) Along each side of any water body with perennial flow and 2) Located adjacent to and landward of nontidal wetlands connected by surface flow and contiguous to water bodies with perennial flow. With this definition, the RPA now includes the entire length of Spring Branch, except the portion that is piped, and some new tributaries of Sugarland Run.

Ms. O'Hare presented the Planning Commission and staff recommendations. At its meeting of December 1, 2003, the Planning Commission recommended approval of ZOTA #03-01, with the following amendments:

1. Incorporate the map submitted by staff on December 1, 2003, less the stream that runs to the east of Queens Row Street;
2. Permit sheds that do not exceed 150 square feet in the Resource Protection Area and exempt them from a Water Quality Impact Assessment.
3. Correct Section 78-1132 (a)(1) of the Draft Ordinance to read, "...The exemption of public roads is further *conditioned*..." and incorporate subparagraph a. into the main body of Section 78-1132 (a)(1).

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The Planning Commission also recommended approval of SOTA #03-01. Staff recommends approval of the ordinance as written, but recommends that the Chesapeake Bay Preservation Area Map be amended to reclassify the Sugarland Run tributary that runs behind Queens Row Street from a perennial stream to an intermittent stream and remove the associated RPA designation.

In summary, Ms. O'Hare briefly outlined the Director of Community Development's memorandum of February 4 to the Town Manager which addresses issues raised at the previous work session.

In response to Councilwoman Hutchinson's question, Ms. O'Hare stated that any primary structure in the RPA would be allowed to be expanded, which includes businesses as well as houses.

Councilman De Noyer clarified that in many cases a non-conforming structure that is over half destroyed cannot be rebuilt, however, in the RPA that is not true. A completely destroyed structure can be rebuilt in the RPA provided the impervious surface area is not exceeded.

Mayor Thoesen asked for clarification from Ms. O'Hare as to the revisions in this ordinance.

Following the public hearing (there were no comments from the audience), Councilman De Noyer moved approval of Ordinance 04-O-05, Zoning Text Amendment, ZOTA #03-01, Chesapeake Bay Preservation Regulations, and Subdivision Ordinance Text Amendment, SOTA #03-01, Chesapeake Bay Preservation Regulations with the following revisions:

- **REVISE** Section 78-1124 (Designation of Chesapeake Bay Preservation Areas), paragraphs (d) and (e), to read:
 - (d) The Intensely Developed Area (IDA) delineates development and infill sites at the time of the original adoption date, **October 23, 1990**, of this article where development was concentrated and little of the natural environment remains. The IDA is defined as redevelopment and shall comply with the performance criteria for redevelopment under §78-1128(j)(4).
 - (e) These designations identified in (b), (c) and (d) are delineated on the "Chesapeake Bay Preservation Areas" map, **adopted by the Town Council on February 10, 2004** ~~dated October 1990~~, as amended, incorporated by reference. Data from the perennial stream mapping project conducted by the Fairfax County Department of Public

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Works and Environmental Services **and completed November 2003** was used to determine Herndon's perennial streams and the associated 100-foot RPA buffer.

- **REVISE** Sections 78-1137--78-1150 (Reserved), paragraph 5, to read:
 5. The official zoning map of the Town of Herndon is amended to show the updated Chesapeake Bay Preservation Areas and shall be annotated to indicate the Resource Management Areas, Resource Protection Areas, and the Intensely Developed Area described in paragraph 3, §78-1124 above, **and incorporates the Chesapeake Bay Preservation Areas Map prepared by Town staff and presented at the Town Council's meeting on February 10, 2004, less the tributary that runs to the east of Queens Row Street.**

This motion was seconded by Councilman Husch. He stated this is a very complicated ordinance with many details. He stated the Chesapeake Bay is a very important resource for the entire area and even though Herndon is a small part, this is an opportunity for Herndon to lead by example.

Councilman De Noyer stated one way for citizens in Herndon to protect the Chesapeake Bay is by practicing proper lawn care. He stated excessive fertilizer and pesticide use runs off into streams and eventually into the Chesapeake Bay. The increase in nutrients in the Chesapeake Bay has caused some of the greatest problems. He stated this is an educational process this region needs to be aware of.

Councilwoman Hutchinson questioned if the IDA designation is unworkable because of the requirement to increase the redevelopment by ten percent, could the designation be changed at a later date?

Richard B. Kaufman, Town Attorney, responded that the IDA designation is within the prerogative of the Town Council. An ordinance change would be required, but it would be legislatively possible.

Vice Mayor Bruce stated that if everyone does something small to protect the Chesapeake Bay, then collectively it will have a big impact on its protection.

Mayor Thoesen expressed his appreciation to staff for the comments on many of the complex questions.

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The question was called on the motion, which carried by a vote of 7-0. The vote was:

Councilmembers:

Bruce	yes
De Noyer	yes
Husch	yes
Hutchinson	yes
O'Reilly	yes
Reece	yes
Mayor Thoesen	yes

04-O-05 Ordinance, An Ordinance Amending ARTICLE X, CHESAPEAKE BAY PRESERVATION AREA OVERLAY DISTRICT, Zoning Ordinance, Herndon, Town Code (2000), as Amended.

Recital

In adopting this ordinance, the Town Council has considered the factors set out in §15.2-2284, Code of Virginia (1950), as amended.

THEREFORE, BE IT ORDAINED by the Council of the Town of Herndon that:

1. Section 70-49, **Requirements**, Subdivision Ordinance, Herndon Town Code, (2000), as amended, is amended and reordained as follows:

Section 70-49. Requirements.

The requirements for a preliminary plan are as follows:

(37) Delineation of Resource Protection Areas, as may be required in Chapter 78, Article X Chesapeake Bay Preservation Area Overlay District.

2. **Section 70-160, Resource Protection Areas**, Subdivision Ordinance, Herndon Town Code, (2000), as amended, is hereby added and ordained as follows:

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Section 70-160. Resource Protection Areas.

All Resource Protection Areas (RPA) boundaries shall be delineated on final record plats with a note that states, "The Resource Protection Area is to remain undisturbed and comply with Chapter 78, Article X, Chesapeake Bay Preservation Area Overlay District."

3. **Section 78-363, Required Information,** Zoning Ordinance, Herndon Town Code, (2000), as amended, is amended and reordained as follows:

Section 78-363. Required Information.

Every site plan, except where an administrative approval in §78-364 is given and where only a temporary site plan as provided in §78-365 is required, shall contain the following information:

- (36) Delineation of Resource Protection Areas, as may be required in Chapter 78, Article X Chesapeake Bay Preservation Area Overlay District.
4. **Article X, Chesapeake Bay Preservation Area Overlay District,** Zoning Ordinance, Herndon Town Code (2000), as amended, is amended and reordained as follows:

Sec. 78-1121. Findings.

- (a) The Chesapeake Bay and its tributaries is one of the most important and productive estuarine systems in the country, providing economic and social benefits to the citizens of the town.
- (b) The Chesapeake Bay waters have been degraded significantly by many sources of pollution including nonpoint source pollution from land uses and development. The lands within the town are valuable in assisting the preservation of the bay. Some display intrinsic water quality value due to the ecological processes they perform and also display ecological benefits by providing water quality maintenance and flood and erosion control. Only with proper management can development and use occur without damage to Chesapeake Bay waters.
- (c) The lands designated by the town council as Chesapeake Bay preservation areas are those lands which, due to the degradation of bay waters and the passage of the Chesapeake Bay Preservation

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Act, need to be protected from destruction and damage through improper development and use practices to protect the quality of bay waters.

(Z.O. 1971, art. 50)

Sec. 78-1122. Statement of Intent.

- (a) This Chesapeake Bay Preservation Area (CBPA) overlay district is established under the authority provided in Code of Virginia, §15.2-2280, and following, and to implement the requirements of Code of Virginia, §10.1-2100 et seq., and to:
 - (1) Implement the clean streams overlay policies described in the comprehensive plan;
 - (2) Protect existing high quality state waters and protect surface groundwater;
 - (3) Restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life within a balanced ecosystem;
 - (4) Safeguard the clean waters of the commonwealth from pollution;
 - (5) Prevent increase of nonpoint pollution;
 - (6) Reduce existing nonpoint source pollution; and
 - (7) Promote water resource conservation to provide for the health, safety and welfare of the present and future residents of the town.
- (b) These CBPA district regulations shall be in addition to all other zoning districts where they are applied so that any parcel of land lying in the Chesapeake Bay Preservation Area Overlay District (CPBAOD) shall also lie in one or more of the other zoning districts provided by this chapter. Unless otherwise provided, approval procedures provided for in this chapter and the Town Code shall be utilized in reviewing all applications governed by this article.

(Z.O. 1971, art. 50)

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Sec. 78-1123. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words and terms not defined in this section shall be given the meanings set forth in §78-2.

Best management practices (BMPs) mean practices or a combination of practices, that is determined by the town, a state or designated area-wide planning agency to be the most effective, practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

Buffer area means an area of natural or established vegetation managed to protect other components of a resource protection area and state waters from significant degradation due to land disturbances.

Chesapeake Bay preservation area (CBPA) means any land designated by the town pursuant to part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, §9 VAC 10-20-10 et seq., and Code of Virginia, §10.1-2107. A CBPA shall consist of the resource protection area (RPA) and the resource management area (RMA). The abbreviated "CBPA" and "CBPAOD" (Chesapeake Bay preservation area overlay district) shall be used interchangeably where the context does not indicate otherwise.

Development means the construction, or substantial alteration, of residential, commercial, industrial, institutional, recreational, transportation or utility facilities or structures.

Diameter at breast height (DBH) means the diameter of a tree measured outside the bark at a point 4½ feet above the ground.

Floodplain. See 100-year floodplain.

Highly erodible soils means soils with an erodibility index from sheet and rill erosion equal to or greater than eight. The erodibility index for any soil is defined as the product of the formula $RKLS/T$, in which R is the rainfall and runoff; K is the soil susceptibility to water erosion in the surface layer; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

Impervious cover means a surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to roofs, buildings, streets, parking areas, and any concrete, asphalt or compacted gravel area and similar ground coverings.

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Intensely developed area (IDA) means an area designated by the CBPA map for existing development and infill sites at the original adoption date of this article on October 23, 1990 in which development is concentrated and little of the natural environment remains. IDAs are generally characterized by at least one of the following:

- (1) Development has severely altered the natural state of the area such that it has more than 50 percent impervious surface;
- (2) Public sewer and water systems, or a constructed stormwater drainage system, or both, have been constructed and served the area by the original adoption date of this article;
- (3) The condition in item 2 does not include areas planned for public sewer and water or constructed stormwater drainage systems. For the purposes of this definition, any property within 500 feet of public sewer and water is considered served by public sewer and water; or
- (4) Housing density is equal to or greater than four dwelling units per acre.

Intermittent stream means a watercourse that flows in a well-defined channel during some seasons of the year but not the entire year.

Land disturbing activity means any activity that causes, contributes to or results in the removal or covering of vegetation on land that may result in soil erosion from water or wind and the movement of sediments into Virginia waters or onto lands in the town. Such activities include clearing, grading, excavating, transporting and filling of land (including construction of all single-family houses, septic tanks, drainfields, but otherwise as defined in Code of Virginia, §10.1-560). This term shall not include minor activities such as home gardening, planting of trees and shrubs and home maintenance.

Nonpoint source pollution means pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agriculture and urban land development and use.

Nontidal wetlands mean those wetlands other than tidal wetlands that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency pursuant to Section 404 of the Federal Clean Water Act, in 33 CFR 328.3b.

Noxious Weeds mean Johnson grass, kudzu, poison ivy, ragweed, poison oak, poison sumac, purple loosestrife, multiflora rose, Japanese honeysuckle,

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mile-a-minute vine and any other species hereinafter identified on the list of “Invasive Alien Plant Species of Virginia,” compiled by the Virginia Department of Conservation and Recreation.

100-year floodplain means all lands that would be inundated by floodwater as a result of a storm event of a 100-year return interval.

Public road includes public streets or public rights-of-way in the town and publicly owned roads designed and constructed in accordance with water quality protection criteria at least as stringent as requirements applicable to the Virginia Department of Transportation, including regulations promulgated pursuant to (i) the Erosion and Sediment Control Law (Code of Virginia, §10.1-560 et seq.) and (ii) the Virginia Stormwater Management Act (Code of Virginia, §10.2-603.1 et seq).

Redevelopment means the process of developing land that is or has been previously developed.

Resource management area (RMA) means lands that if improperly used or developed, have the potential for causing significant water quality degradation or for diminishing the functional value of the resource protection area. RMA is further described in §78-1124(c).

Resource protection area (RPA) means that component of the CBPA comprised of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological process they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters. The elements of an RPA are set out in §78-1124(b)(1).

Steep slopes mean slopes with a gradient equal to or greater than 15 percent.

Substantial alteration means any expansion or modification of a structure or development that would result in a disturbance of land exceeding an area of 2,500 square feet only in the resource management area.

Water body with perennial flow means a body of water flowing in a natural or open man-made channel year-round, except during periods of drought. The term “water body with perennial flow” includes perennial streams, estuaries and tidal embayments. A perennial stream means any stream that is both perennial and so depicted on the map of Chesapeake Bay Preservation Areas, adopted by the Town Council. Lakes and ponds that form the source of a perennial stream, or through which the perennial stream flows, are a part of the perennial stream. The width of the perennial stream may be measured from either (i) top-of-bank to top-of-bank on the opposite side of the stream or (ii) from Ordinary High Water Mark

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(OHWM) to the OHWM on the opposite side of the stream, as defined by 33 CFR Part 328.3(e), as determined by the zoning administrator. Ponds or lakes are to be measured from the limits of the normal water level. Generally, the water table is located above the streambed for most of the year and groundwater is the primary source for stream flow.

Water-dependent development means a facility or development that cannot exist outside of the RPA and must be located in the stream proximity by reasons of the intrinsic nature of its operation. These facilities include intakes and outfalls of storm sewers, and public water-oriented recreation areas.

Wetlands mean any tidal and nontidal wetlands that meet the unified federal definition as delineated by hydrology, soils and vegetative characteristics. See Code of Federal Regulations, Title 33, Navigation and Navigable Waters, Chapter II, Part 328, Section 3.

(Z.O. 1971, §28-50-1) **Cross reference-Definitions generally, §1-2.**

Sec. 78-1124. Designation of Chesapeake Bay Preservation Areas.

- (a) This article shall apply to all land in CBPAs, which shall include land that meets the designation criteria in this section. CBPAs are divided into resource protection areas (RPAs), resource management areas (RMAs), as well as Intensely Developed Areas (IDAs) and they are subject to the use restrictions and regulations in this chapter.
 - (b) Resource protection areas (RPAs) shall consist of sensitive lands adjacent to water bodies with perennial flow that have either an intrinsic water quality value due to the ecological or biological process they perform or that are sensitive to land uses or activities such that the use may result in significant degradation to state waters. In their natural condition, these lands provide for the removal, reduction or assimilation of nonpoint source pollution entering the bay and its tributaries.
- (1) The RPA shall consist of:
- a. Nontidal wetlands connected by surface flow and contiguous to water bodies with perennial flow; and
 - b. A buffer area not less than 100 feet in width that is (i) along each side of any water body with perennial flow and (ii) located adjacent to and landward of nontidal wetlands as described in a. above;

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- c. The full buffer area shall be designated as the landward component of the RPA notwithstanding the presence of permitted uses, encroachments, and permitted vegetation clearing in compliance with §78-1127, 78-1128 and 78-1129; and
 - d. The buffer is to be measured from the top of bank or ordinary high water mark landward 100 feet.
- (c) The resource management area (RMA) shall consist of all land located in the Town of Herndon that is not included in the RPA or in the IDA. Resource management areas protect the quality of state waters, are deemed to be lands of significance for the protection of the environment, and incorporate, but are not limited to, floodplains, highly erodible soils, steep slopes of 15 degrees or greater and nontidal wetlands not connected by surface flow to water bodies with perennial flow.
- (d) The Intensely Developed Area (IDA) delineates development and infill sites at the time of the original adoption date, October 23, 1990, of this article where development was concentrated and little of the natural environment remains. The IDA is defined as redevelopment and shall comply with the performance criteria for redevelopment under §78-1128(j)(4).
- (e) These designations identified in (b), (c) and (d) are delineated on the “Chesapeake Bay Preservation Areas” map, adopted by the Town Council on February 10, 2004, as amended, incorporated by reference. Data from the perennial stream mapping project conducted by the Fairfax County Department of Public Works and Environmental Services and completed November 2003 was used to determine Herndon’s perennial streams and the associated 100-foot RPA buffer.
- (f) The Chesapeake Bay Preservation Areas map shows only the general location of CBPAs. Persons contemplating land development within the Town of Herndon should consult this map prior to these activities. The specific location of RPAs on a lot or parcel shall be delineated on each site or parcel as required under §78-1125, Site-Specific Delineation for RPAs or through the review and approval of a Water Quality Impact Assessment, as provided for in §78-1130.
- (Z.O. 1971, §28-50-2)

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Sec. 78-1125. Site-Specific Delineation for Resource Protection Areas.

- (a) As part of any land disturbance, development or redevelopment in the RPA, a site-specific RPA delineation shall be required. The “Chesapeake Bay Preservation Areas” map, adopted by the Town Council on February 10, 2004, as amended, may be used as a guide to identify the general location of Resource Protection Areas.
- (b) For land disturbance in the RPA that is no more than 5,000 square feet, the site-specific RPA delineation shall include a scaled drawing of the property that:
 - (1) Delineates nontidal wetlands connected by surface flow and contiguous to water bodies with perennial flow;
 - (2) Delineates an 100-foot buffer area that is shown (i) along each side of any water body with perennial flow and (ii) adjacent to and landward of nontidal wetlands as described in (1) above; and
 - (3) Identifies other sensitive environmental features, as determined by the zoning administrator.
- (c) For land disturbance in the RPA that exceeds 5,000 square feet, the following requirements shall be met:
 - (1) RPA boundary delineation studies shall be sealed by a professional engineer, land surveyor, landscape architect, soil scientist or wetland delineator certified or licensed to practice in the Commonwealth of Virginia. Any work performed by other firms or individuals not under the responsible charge of the licensed professional sealing the study shall be identified and sealed by that individual, as appropriate;
 - (2) Wetland determinations used in the RPA delineation shall be performed using methods specified by the U.S. Army Corps of Engineers (USACE), and a copy of the USACE’s Jurisdictional Determination approving the wetlands delineation shall be provided;
 - (3) RPA boundary delineation studies shall be submitted on standard-size sheets of 24”x36” at a scale of 1”=50’ or larger; and

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- (4) Site-specific RPA delineation shall include the following:
- a. Cover sheet with project name, Town plan identification number, vicinity map, tax map reference number and fee computation;
 - b. A narrative describing how the proposed RPA boundary was established, including a discussion of which components determine this RPA boundary, and any wetland shown on the plan(s) that were determined not to be a component of the RPA;
 - c. Plan sheet(s) with two-foot contour interval topography showing each individual component of the RPA overlain to create the final RPA boundary, the RPA boundary from the adopted Chesapeake Bay Preservation Area map, locations of the horizontal and vertical control points, and locations of points and transects used in the wetland determination. Topography shall be correlated to a USGS or Town benchmark(s), based on NGVD29, which shall be referenced in the plan. Plan sheets shall include a north arrow.
 - d. Standard USACE data forms used in the wetland determination and the issued jurisdictional determination for the subject site.
 - e. A description of the methodology used and data collected, including standard data sheets, used to identify water bodies with perennial flow.
- (d) In determining the site-specific RPA boundary, the zoning administrator may adjust the applicant's submitted boundary survey. In addition, the zoning administrator shall utilize the "Federal Manual for Identifying and Delineation Jurisdictional Wetlands," 1987, for determining wetlands location. In the event the applicant contests the adjusted boundary, the applicant may appeal the zoning administrator's decision, under Article III of this Chapter, the Board of Zoning Appeals.

Sec. 78-1126. Subdivision.

Where land, all or part of which is within the CBPAOD, is subdivided, the subdivision plat thereof shall note the existence of any RMA or RPA areas on the

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land shown on such plat. The existence of RMA or RPA on a lot created prior to the adoption of this article shall not be the basis for the granting of a CBPA exception.

(Z.O. 1971, §28-50-3)

Sec. 78-1127. Permitted Uses in Chesapeake Bay Preservation Areas.

- (a) A use shall be permitted within the RMA provided it is permitted in the underlying zoning district regulations and it complies with the performance criteria set forth in §78-1128.
- (b) A use shall be permitted within an RPA, provided it is permitted in the underlying zoning district, complies with §78-1128, §78-1129, and is one or more of the following:
 - (1) Water-dependent;
 - (2) Constitutes any redevelopment;
 - (3) Constitutes development or redevelopment within a designated IDA;
 - (4) A new use established pursuant to §78-1129(g);
 - (5) A road or driveway crossing satisfying the conditions set forth in §78-1129(e); or
 - (6) A flood control or stormwater management facility satisfying the conditions set forth in §78-1129(f).
- (c) The development of a new or expanded water-dependent facility in an RPA is permitted, provided it meets the criteria set forth in §78-1129(d).
- (d) Redevelopment outside the IDA shall be permitted in the RPA only if there is no increase in the amount of impervious cover and no further encroachment within the RPA. Additionally, this redevelopment shall conform to applicable erosion and sediment control and stormwater management criteria set forth in §78-1128(f) and §78-1128(j) as well as all applicable stormwater management requirements of other Virginia and federal agencies.
- (e) Uses exempt from this article are (i) water wells, (ii) passive recreation facilities such as boardwalks, trails and pathways; and (iii) historic preservation and archaeological activities provided:

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- (1) All required local, state and federal permits, except those to which these uses specifically apply, have been issued;
- (2) Sufficient and reasonable proof is submitted that the intended use will not deteriorate water quality;
- (3) The intended use does not conflict with nearby planned or approved uses; and
- (4) There is compliance with Article III, Chapter 26 (Erosion and Sediment Control) of the Town of Herndon Code if the land disturbance exceeds an area of 2,500 square feet.

Sec. 78-1128. General Performance Criteria for Land Disturbance in Chesapeake Bay Protection Areas.

- (a) To attain the water quality objectives set forth in the statement of intent, uses, development, and redevelopment of land in CBPAs, (RMAs and RPAs) shall meet and maintain the performance criteria set forth in this section.
- (b) All development and redevelopment within RMAs and RPAs that exceed 2,500 square feet of land disturbance shall be subject to approval by the zoning administrator through the submission of a site plan, a single lot development plan, or a subdivision plan. The zoning administrator may approve these submissions only if the regulated activity is in accordance with this article and the applicant has demonstrated that the proposed development meets or exceeds the criteria in this section.
- (c) Land disturbance shall be in accordance with an approved plan or water quality impact assessment and shall be clearly shown on the plan and physically marked on the development site. No more land shall be disturbed than is necessary to provide for the proposed use or development.
- (d) Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the proposed use(s) or development. To preserve indigenous vegetation to the maximum extent practicable consistent with the proposed use(s) or development, all trees located outside the area of land disturbance with a DBH of four inches or more shall be preserved. Clearing within the area of land disturbance shall be limited to that necessary to provide for the intended use of the property and all appurtenances, a single

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access during construction, positive site drainage, water quality BMPs, and the installation of utilities. Such clearing limits shall be subject to review and approval by the zoning administrator.

- (e) Development shall minimize impervious cover consistent with the proposed use or development. To minimize impervious cover and promote infiltration of stormwater in the ground consistent with proposed uses and development, grid and modular pavements shall be considered for any required parking area, alley or other low traffic driveway, unless otherwise approved by the zoning administrator.
- (f) Land disturbance of 2,500 square feet or more (including construction of all single family houses) shall comply with Article III, Chapter 26 (Erosion and Sediment Control) of this Code.
- (g) Where the BMPs utilized require regular or periodic maintenance to continue their functions, such maintenance shall be ensured by the town through a maintenance agreement with the owner or developer or some other mechanism that achieves an equivalent objective.
- (h) A water quality impact assessment, pursuant to §78-1130, shall be required for the following:
 - (1) Any proposed land disturbance, development or redevelopment activity within a RPA, including the expansion of non-conforming structures and uses, as identified in §78-1131; or
 - (2) Any development within the RMA, as deemed necessary by the zoning administrator, based upon the unique characteristics of the site or intensity of the proposed use(s) or development.
- (i) The developer shall provide evidence to the Town, prior to commencing grading or other on-site land disturbing activities, that any wetlands or similar permit required by federal, Virginia or local laws or regulations have been properly obtained.
- (j) The following stormwater management requirements consistent with water quality protection provisions of the Virginia Stormwater Management Regulations (4VAC 3-20-10 et seq.) shall apply in CBPAs (RMAs and RPAs):

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- (1) Post development nonpoint source pollution load shall not exceed the predevelopment nonpoint source pollution load of runoff based upon calculated values of average land cover conditions of watersheds within the town.
- (2) The following options may be employed to achieve the stormwater management requirements of this article, as required by (j)(1) above:
 - a. Incorporation on the site of BMPs that achieve the required control as determined by calculation procedures and BMP efficiencies in the Town of Herndon Public Facilities Manual, the Northern Virginia BMP Handbook or the Virginia Stormwater Management Regulations. For this requirement, the “site” may include multiple projects or properties that are adjacent to one another or lie within the same drainage area where a single BMP will be utilized by those projects to satisfy water quality protection requirements;
 - b. Compliance with a locally adopted regional stormwater management program incorporating pro rata share payments pursuant to the authority in §70-89 of this Code that results in achievement of water quality protection equivalent to Article III, Chapter 26 (Erosion and Sediment Control) of the Town of Herndon Code and (j)(1) of this section. Compliance with the locally adopted regional stormwater management program may include a Virginia Pollution Discharge Elimination System (VPDES) permit issued by the Department of Environmental Quality to the Town of Herndon for its municipally owned separate storm sewer system discharges that is reviewed and found by the board to achieve water quality protection equivalent to that required by section (j); or
 - c. Compliance with a site-specific VPDES permit issued by the Department of Environmental Quality, provided that the Town Council specifically determines that the permit requires measures that collectively achieve water quality protection equivalent to that required in this section.
- (3) If the proposal is defined as redevelopment, whether or not it is located within the IDA, it must meet one of the following stormwater management performance criteria:

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- a. If currently served by water quality BMPs, and such BMPs are in good working order, regulated activity must not increase nonpoint source pollution load in runoff; or
 - b. If not served by water quality BMPs, regulated activity must reduce nonpoint source pollution load runoff by at least ten percent.
- (4) If the development is located within the IDA, it shall be considered redevelopment and shall comply with the stormwater management provisions for redevelopment, as defined in section (j)(3) above, and Article III, Chapter 26 (Erosion and Sediment Control) of the Town of Herndon Code.
- (k) The zoning administrator may exempt any maintenance, alteration, use or improvement to an existing structure from the requirements of section (j) that does not degrade the quality of surface water discharge. Recognized engineering standards are to be used to determine if the quality of the surface discharge is to be degraded.
- (l) The landowner shall be responsible for maintaining all stormwater management and BMP facilities, except that the town shall be responsible for maintaining stormwater management and BMP facilities in single-family detached residential areas. An easement agreement shall be required that sets forth maintenance responsibilities, inspections by the town and maintenance by the town at the owner's expense if the owner fails to maintain properly the facilities.
- (Z.O. 1971, §28-50-5)

Sec. 78-1129. Additional Development Criteria for Resource Protection Areas.

- (a) Establishment of a 100-foot buffer area is required, and it shall be the landward component of the RPA as set forth in §78-1124(b)(1). Notwithstanding permitted uses, encroachments, and vegetation clearing, as set forth in this section, the 100-foot buffer shall not be reduced in width. In addition, the following criteria apply:
 - (1) To minimize the adverse effects of human activities on the other components of the RPA, state waters and aquatic life, this 100-foot wide buffer that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution

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from runoff shall be retained if present, established where it does not exist, and adequately maintained thereafter. This 100-foot wide buffer is the same one referred to in (a) above; and

- (2) The 100-foot buffer area, as described in (a) above, shall be deemed to achieve a 75 percent reduction in sediments and 40 percent reduction in nutrients.
- (b) A water quality impact assessment, pursuant to §78-1130, shall be required and submitted for any proposed land disturbance, development or redevelopment activity within a RPA.
- (c) To maintain the functional value of the buffer area, indigenous vegetation may be removed, if approved by the zoning administrator, to provide for reasonable sight lines, access paths, general woodlot management, and BMPs, including BMPs that prevent upland erosion and concentrated flows of stormwater, as follows:
 - (1) Trees may be pruned or removed only as necessary to provide for sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and filtering nonpoint source pollution from runoff;
 - (2) Any path shall be constructed and surfaced to control erosion effectively;
 - (3) Dead, diseased or dying trees or shrubbery and noxious weeds may be removed and thinning of trees may be allowed pursuant to sound horticulture practice as prescribed by the Town's Community Forester; and
 - (4) Use of fertilizers, herbicides or pesticides shall be minimized in the buffer area.
- (d) For new or expanded water-dependent development, the applicant shall demonstrate that the regulated activity meets or exceeds the following standards:
 - (1) All performance criteria set forth in this article;
 - (2) Any nonwater dependent component is located outside of the RPA;

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- (3) Access is provided with the minimum disturbance necessary and where possible, with a single point of access; and
 - (4) The development does not conflict with the comprehensive plan.
- (e) Roads and driveways not exempt under §78-1132(a)(1) and which, therefore, must comply with the provisions of this article, may be constructed in or across RPAs if each of the following conditions is met:
- (1) The zoning administrator makes a finding that there are no reasonable alternatives to aligning the road or driveway in or across the RPA;
 - (2) The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize (i) encroachment in the RPA and (ii) adverse effects on water quality;
 - (3) The design and construction of the road or driveway satisfy all applicable criteria of this article including the submission and approval of a water quality impact assessment, as provided for in §78-1130; and
 - (4) The zoning administrator reviews the plan for the road or driveway proposed in or across the RPA in coordination with the review process for a site plan or subdivision.
- (f) Flood control and stormwater management facilities that drain or treat water from multiple development projects or from a significant portion of a watershed may be allowed in RPAs, provided that:
- (1) The Town of Herndon has established that the location of the facility within the RPA is the optimal location;
 - (2) The size of the facility is the minimum necessary to provide necessary flood control, stormwater management, or both;
 - (3) The facility must be consistent with the Town of Herndon's Public Facilities Manual, the Northern Virginia BMP Handbook or the Virginia Stormwater Management Regulations;

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- (4) All applicable permits for construction in Virginia or federal waters must be obtained from the appropriate Virginia and federal agencies, such as the U.S. Army Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission;
 - (5) Approval prior to construction must be received from the Town of Herndon;
 - (6) Routine maintenance is allowed to be performed on such facilities to assure that they continue to function as designed; and
 - (7) It is not the intent of this subsection to allow a BMP that collects and treats runoff from only an individual lot or some portion of the lot to be located within a RPA.
- (g) The 100-foot RPA buffer may be encroached upon under the following circumstances:
- (1) If the requirements result in the loss of a buildable area for new homes or new principal structures on lots recorded before October 1, 1989, the zoning administrator may grant encroachments into the buffer area provided that:
 - a. The applicant submits an administrative waiver application, in accord with §78-1134(b), and the required Water Quality Impact Assessment (WQIA), receives zoning administrator approval;
 - b. The encroachment into the buffer area shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities;
 - c. Where practical, a vegetated area that maximizes water quality protection, mitigates the effects of the buffer encroachment, and equals the area of the buffer encroachment shall be established elsewhere on the lot; and
 - d. The encroachment may not extend into the buffer area that is 50 feet closest to the water body with perennial flow and/or its associated wetlands.
 - (2) If the requirements result in the loss of a buildable area for new homes or new principal structures on lots recorded between

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October 1, 1989, and February 10, 2004, the zoning administrator may grant an encroachment into the buffer area provided that:

- a. The lot or parcel was created as a result of a process conducted in conformity with Chapter 70, Subdivision of Land, of the Town of Herndon Code;
- b. Conditions or mitigation measures imposed through a previously approved exception shall be met;
- c. If the use of a best management practice was previously required, the BMP shall be evaluated to determine if it continues to function effectively and, if necessary, the BMP shall be reestablished or repaired and maintained as required; and
- d. The criteria in §78-1129(g)(1) shall be met.

Sec. 78-1130. Water Quality Impact Assessment.

- (a) A Water Quality Impact Assessment shall be required for the following:
 - (1) Any proposed land disturbance, development or redevelopment activity within a RPA, as permitted and consistent with §78-1127, 78-1128, 78-1129 and 78-1131;
 - (2) Any proposed development in the RMA that, in the judgement of the zoning administrator, warrants such an assessment because of the unique characteristics of the site or intensity of the proposed use, or development; and
 - (3) As a part of a request for a rezoning, a conditional use permit as well as the submission of a site plan or preliminary plan or single lot development plan that meets the criteria in items (1) and (2) above. The zoning administrator has the authority to approve or deny a water quality impact assessment.
- (b) The purpose of the water quality impact assessment is to:
 - (1) Identify the impacts of the proposed land disturbance, development or redevelopment on water quality and lands within the RPAs and other environmentally sensitive lands;

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- (2) Ensure that, where land disturbance, development or redevelopment takes place within RPAs and other sensitive lands, it will be located on those portions of a site and in a manner that will be least disruptive to the natural functions of RPAs and other sensitive lands;
 - (3) Protect individuals from investing funds for improvements proposed for location on lands unsuited for such development because of high groundwater, erosion, vulnerability to flood and storm damage; and
 - (4) Specify mitigation that addresses water quality protection.
- (c) There are two levels of water quality impact assessments: a minor and a major.
- (1) A minor water quality impact assessment pertains only to any land disturbance, development or redevelopment in the RPA which (i) causes up to 5,000 square feet of land disturbance, or (ii) is located in the RMA and is determined by the zoning administrator to warrant such assessment under §78-1128(h)(2).
 - (2) A minor assessment must demonstrate that the undisturbed buffer area, together with the enhanced vegetative plantings and any required BMP, retards runoff, prevents erosion, and filters non-point source pollution to the equivalent of the full undisturbed 100-foot buffer area, which shall be deemed to achieve a 75 percent reduction in sediments and a 40 percent reduction in nutrients. A minor assessment shall include a drawing to scale that shows the following:
 - a. Location of the components of the CBPA including the 100-foot buffer area component of the RPA;
 - b. Location and nature of the proposed encroachment into the buffer area including type of paving material; areas of clearing or grading; location of any structures, drives, or other impervious cover; and existing private water supply system or sewage disposal systems to include reserve drainfield sites;
 - c. Type and location of proposed BMPs, if necessary, to mitigate the proposed encroachment;

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- d. Location of existing, on-site vegetation, including the number and type of trees and other vegetation, to be removed in the buffer to accommodate the encroachment or modification; and
 - e. Re-vegetation plan that supplements the existing buffer vegetation in a manner that provides for pollutant removal as well as erosion and runoff control.
- (3) A major water quality impact assessment shall be required for any land disturbance, development or redevelopment in the RPA which (i) exceeds 5,000 square feet of land disturbance or (ii) is located in an RMA and is determined by the zoning administrator to warrant a water quality impact assessment under §78-1128(h)(2). The information for this assessment shall be considered a minimum, unless the zoning administrator determines that some of the elements are unnecessary due to the scope and nature of the proposed use(s) and land development. The following elements shall be included in the preparation and submission of a major water quality assessment:
- a. All of the information required in a minor water quality impact assessment, as specified (c)(2) of this section.
 - b. A hydrogeological component that:
 - 1. Describes the existing topography, soils, hydrology and geology of the site and adjacent lands;
 - 2. Describes the impacts of the proposed development on topography, soils, hydrology and geology on the site and adjacent lands; and
 - 3. Indicates the following:
 - i. Disturbance or destruction of wetlands and justification for such action;
 - ii. Disruptions to existing hydrology including wetland and stream circulation patterns;
 - iii. Description and source location of proposed fill material;

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- iv. Estimation of predevelopment and postdevelopment pollutant loads in runoff;
 - vi. Estimation of percent increase in the on-site impervious surface and types of surfacing materials used;
 - vii. Percent of site to be cleared for the project;
 - viii. Anticipated duration and phasing schedule or construction project; and
 - ix. Acquisition of all requisite permits from all applicable agencies necessary to develop the project.
- c. Describes the proposed mitigation measures for the potential hydrogeological impacts. Potential mitigation measures include:
- 1. Proposed erosion and sediment control concepts; concepts may include minimizing the extent of the cleared area, perimeter controls, reduction of runoff velocities, measures to stabilize disturbed areas, schedule and personnel for site inspection;
 - 2. Proposed stormwater management system;
 - 3. Creation of wetlands to replace those lost; and
 - 4. Minimizing cut and fill.
- d. Identification of the existing characteristics and conditions of sensitive lands included as components of Chesapeake Bay preservation areas, as defined in this article.
- e. Identification of the natural processes and ecological relationships inherent in the portion of the CBPA located on the site and an assessment on the impact of the proposed use and development on these processes and relationships.

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- (d) The submission and review requirements shall meet the following standards:
 - (1) Seven copies of all site drawings and other applicable information as required by items (c)(2) and (c)(3) of this section shall be submitted to the zoning administrator for review;
 - (2) For a major water quality impact assessment, all information required in this section shall be certified by a professional engineer or land surveyor as complete and accurate. Such certification is not required for a minor water quality impact assessment; and
 - (3) As part of any major water quality impact assessment submittal, the zoning administrator may require the Chesapeake Bay Local Assistance Department (CBLAD) to review the assessment and respond with written comments. Upon receipt of a major water quality impact assessment, the zoning administrator will determine if a CBLAD review is warranted to assure compliance with this article. The zoning administrator may incorporate any comments from CBLAD received within 90 days of the request into the final review.
- (e) The evaluation procedure shall be as follows:
 - (1) Upon the completed review of a minor water quality impact assessment, the zoning administrator shall determine if any proposed modification or reduction to the buffer area is consistent with the provisions of this article and make a finding based upon the following criteria:
 - a. The necessity of the proposed encroachment and the ability to place improvements elsewhere on the site to avoid disturbance of the buffer area;
 - b. Impervious surface is minimized;
 - c. Proposed best management practices, where required, to achieve the requisite reductions in pollutant loadings;
 - d. The development, as proposed, meets the purpose and intent of this article; and

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- e. The cumulative impact of the proposed development, when considered in relation to other development in the vicinity, both existing and proposed, shall not result in a significant degradation of water quality.
- (2) Upon the completed review of a major water impact assessment, the zoning administrator shall determine if the proposed development is consistent with the purpose and intent of this article and shall make findings based upon the following criteria:
 - a. Within any RPA the proposed development is water-dependent or is redevelopment;
 - b. The disturbance of wetlands is minimized;
 - c. The development does not result in significant disruption of the hydrology of the portion of CBPA on the site;
 - d. The development does not result in significant degradation to aquatic vegetation of life in the portion of CBPA on the site;
 - e. The development does not result in unnecessary destruction of plant materials in the portion of CBPA on the site;
 - f. Proposed erosion and sediment control concepts are adequate to achieve the required reductions in runoff and prevent off-site sedimentation;
 - g. Proposed stormwater management concepts are adequate to control the stormwater runoff to achieve the required standard for pollutant control;
 - h. Proposed revegetation of disturbed areas provides required erosion and sediment control benefits;
 - i. The development, as proposed, is consistent with the purpose and intent of the CBPA overlay district; and
 - j. The cumulative impact of the proposed development, when considered in relation to other development in the vicinity, both existing and proposed, shall not result in a significant degradation of water quality.

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- (3) The zoning administrator shall require additional mitigation when potential impacts have not been adequately addressed. Evaluation of mitigation measures will be made by the zoning administrator based on the criteria listed in (e)(1) and (e)(2) of this section.
- (4) The zoning administrator must find the proposal to be inconsistent with the purpose and intent of this article when the impacts created by the proposal cannot be mitigated. Evaluation of the impacts shall be made by the zoning administrator based on the criteria listed in subsection (e)(1) and (e)(2) of this section.

(Z.O. 1971, §28-50-7)

Sec. 78-1131. Nonconforming Structures and Uses

- (a) The lawful use of a building or structure, or a lawful building or structure, which existed on October 23, 1990 or which exists at the time of any amendment to the article, and which is not in conformity with this article may be continued, in accordance with Article V, Nonconformities, of this chapter.
- (b) Subject to zoning administrator approval, existing legal buildings or structures (or the legal uses therein) that are not in conformity with this article may be remodeled provided that:
 - (1) The applicant submits an administrative waiver application, as identified in §78-1134(b);
 - (2) There is no increase in the nonpoint source pollution load; and
 - (3) Any development or land disturbance exceeding an area of 2,500 square feet shall comply with the requirements of article III, chapter 26 of this Code (Erosion and Sediment Control).
- (c) Subject to zoning administrator approval, existing legal principal buildings or structures that are not in conformity with this article may be expanded, provided that:
 - (1) The applicant submits an administrative waiver application, in accord with §78-1134(b), and the required Water Quality Impact Assessment (WQIA), receives zoning administrator approval;

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- (2) The request is the minimum necessary to afford relief;
 - (3) Granting the request will not confer upon the applicant any specific privileges that are denied by the article to other property owners in similar situations;
 - (4) The request is in harmony with the purpose and intent of this article and does not result in water quality degradation;
 - (5) The request is not based on conditions or circumstances that are self-created or self-imposed;
 - (6) Reasonable and appropriate conditions are imposed, as warranted, that will prevent degradation of water quality;
 - (7) Other findings, as appropriate and required by the Town of Herndon are met; and
 - (8) In no case shall this provision apply to accessory structures.
- (d) Possible expansion or modification of accessory structures and possible expansion or modification of nonconforming uses, where land disturbing activities are to take place, must be reviewed under §78-1133, Request for a CBPA Exception.
 - (e) If a nonconformity is approved, the zoning administrator shall declare the nonconformity null and void 12 months from the construction date if work has not commenced.
 - (f) In any event, any such expansion or alteration must comply with Article V of this chapter (Nonconformities) and with the underlying zoning district regulations.
 - (g) Notwithstanding the regulations in (f) of this section, nothing in this article shall prevent the reconstruction of preexisting buildings or structures destroyed or damaged by any casualty, provided the building or structure is reconstructed in the same location and creates no more impervious area than the preexisting building or structure.

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Sec. 78-1132. Exemptions for Public Utilities, Railroads, Public Roads and Facilities.

- (a) The following activities shall be exempt from the provisions of this article to the extent that they are permitted by the Town of Herndon's Zoning Ordinance and are not prohibited by any other ordinance or law:
 - (1) Construction, installation, operation and maintenance of electric, natural gas, fiber optic and telephone transmission lines, railroads and public roads and their appurtenant structures shall be conducted in accordance with (i) the Erosion and Sediment Control Law (Code of Virginia, §10.1-560 et seq.), Article III, Chapter 26 of this Code (Erosion and Sediment Control) and the Stormwater Management Act (Code of Virginia, §10.1-603.1 et seq.) (ii) an erosion and sediment control plan and a stormwater management plan approved by the town, or (iii) local water quality protection criteria at least as stringent as the above state requirements are deemed to comply with this article. Exemptions for public roads are further conditioned as follows: The road alignment and design has been optimized, consistent with all applicable requirements, to prevent or otherwise minimize the encroachment in the RPA and to minimize the adverse effects on water quality.
 - (2) Construction, installation and maintenance of water, sewer natural gas lines and underground telecommunications and cable television lines owned, permitted or both by the Town of Herndon shall be exempt from the criteria in this article, provided that:
 - a. To the extent possible, the location of such utilities and facilities should be outside the RPA;
 - b. No more land shall be disturbed than is necessary to provide for the proposed utility installation;
 - c. All such construction, installation and maintenance of such utilities and facilities shall comply with all applicable town, Virginia and federal permits and be designed and conducted in a manner that protects water quality; and

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- d. Any land disturbance exceeding an area of 2,500 square feet must comply with erosion and sediment control requirements of the town.

(Z.O. 1971, §28-50-9)

Sec. 78-1133. Request for an Exception to the Chesapeake Bay Preservation Areas.

- (a) To be relieved from the requirements of §78-1127, Permitted uses in the Chesapeake Bay Preservation Areas, and §78-1129, Additional Criteria for Development Activities within a Resource Protection Area, the applicant must be granted an exception to the Chesapeake Bay Preservation Areas (CBPA) by the Town Council. An application for a CBPA exception must be submitted to the Town Council through the Department of Community Development. The application shall include a written statement that identifies the impacts of the proposed exception on water quality and on lands within the Resource Protection Area, through the submission of a WQIA, as required under §78-1130.
- (b) No such CBPA exception shall be authorized except after notice and hearing, as required by Code of Virginia §15.2-2204, (2000), as amended, except only one hearing shall be required and the applicant may notify affected property owners by first-class mail.
- (c) The Town Council shall review the request for a CBPA exception as well as the WQIA and may grant it with such conditions and safeguards as deemed necessary to further the purpose and intent of this article if the Council finds:
 - (1) The requested CBPA exception is the minimum necessary to afford relief;
 - (2) Granting the CBPA exception does not confer upon the applicant any special privileges that are denied by §78-1127, 78-1128 and 78-1129 to other property owners who are similarly situated;
 - (3) The request is in harmony with the purpose and intent of §78-1127, 78-1128 and 78-1129 and is not of substantial detriment to water quality;
 - (4) The request is not based upon conditions or circumstances that are self-created or self-imposed;

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- (5) Reasonable and appropriate conditions are imposed, as warranted, that will prevent the allowed activity from causing a degradation of water quality; and
- (6) Other findings, as appropriate and required by the Town of Herndon, are met.

Sec. 78-1134. Administrative Waivers.

- (a) An administrative waiver process is established to address the zoning administrator review for nonconforming principal structures (§78-1131)(c), buffer encroachments (§78-1129)(g), and relief from §78-1128 and all other article sections, exclusive of §78-1127, and §78-1129. Such requests must be made in writing to the zoning administrator, who has the authority to grant or deny the waiver.
- (b) To commence the administrative waiver process, an application shall be submitted to the zoning administrator and include the following information:
 - (1) Name and address of applicant and property owner;
 - (2) Legal description of the property;
 - (3) Location map; and
 - (4) A WQIA, as required under §78-1130, which needs to be approved by the zoning administrator.
- (c) The zoning administrator may grant waiver requests for §78-1128, provided:
 - (1) The request is the minimum necessary to afford relief;
 - (2) Granting the request does not confer upon the applicant any special privileges denied by this article to other property owners in the Chesapeake Bay Preservation Overlay District;
 - (3) The request is in harmony with the purpose and intent of this article and is not injurious to the neighborhood or otherwise detrimental to the public welfare, and is not of substantial detriment to water quality;

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- (4) The request is not based upon conditions or circumstances that are self-created or self-imposed; and
 - (5) Reasonable and appropriate conditions are imposed, as warranted, that will prevent the allowed activity from causing a degradation of water quality.
- (d) The zoning administrator may grant a waiver requests for sections other than 78-1127, 78-1128 and 78-1129, provided:
- (1) The request is the minimum necessary to afford relief; and
 - (2) The zoning administrator has the authority to place reasonable and appropriate conditions upon any waiver, as necessary, so that the purpose and intent of this article is preserved.
- e) The administrative waiver process for nonconforming principal structures are identified in §78-1131(c). Buffer encroachments may be administratively waived under §78-1129(g).
- (f) Nothing in this section shall affect the ability to seek a CBPA exception. Use of the administrative procedure is not a prerequisite to use of the appeal or exception process.
- (Z.O. 1971, §28-50-8)

Sec. 78-1135. Conflict of Article with Other Regulations.

In cases where the requirements of this article conflict with any other provisions of this Code, or state code regulations, the more stringent restrictions shall apply.
(Z.O. 1971, §28-50-11)

Sec. 78-1136. Severability.

The sections, paragraphs, sentences, clauses and phrases of this article are severable, and if any phrase, clause, sentence, paragraph or section of this article shall be declared unconstitutional or invalid by the valid judgement or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this article.
(Z.O. 1971, §28-50-12)

Secs. 78-1137--78-1150. Reserved.

5. The official zoning map of the Town of Herndon is amended to show the updated Chesapeake Bay Preservation Areas and shall be annotated to

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indicate the Resource Management Areas, Resource Protection Areas, and the Intensely Developed Area described in paragraph 3, §78-1124 above, and incorporates the *Chesapeake Bay Preservation Areas Map* prepared by Town staff and presented at the Town Council's meeting on February 10, 2004, less the tributary that runs to the east of Queens Row Street.

6. This ordinance shall be effective on and after the date of its adoption and shall not apply to any completed and accepted land use application received by the Town on or prior to that date.

Resolution 04-G-18, Solicitation of Comments from the Public, Proposed FY 2004-2005 Annual Budget.

A Certificate of Publication was filed from the Editor of the *Herndon Observer* newspaper showing that notice of said public hearing had been duly advertised in the January 30, 2004 issue.

Mayor Thoesen stated the purpose of the public hearing is to solicit comments from the public on the overall guidance in the preparation of the proposed FY 2004-2005 annual budget. This is the first of a series whereby the Council will be entertaining input from the public in connection with the annual budget and the Capital Improvement Program (CIP) for FY 2005-2010. He stated public hearings on the annual budget would be conducted on Tuesday, April 13, and Tuesday, April 27, 2004.

The public hearing was held and the following individual presented testimony:

- Mr. Jim Deuel, Past Chairman, Herndon Dulles Chamber of Commerce, presented a letter to Mayor Thoesen and Council expressing appreciation for the generous grant monies made available in the 2003-2004 budget for economic development initiatives through tourism (a copy is on file in the Town Clerk's office). He outlined the many ways the Tourism Committee has utilized the funds and how the committee's efforts have paid off. He requested Council to favorably consider the grant request in the upcoming budget for the Visitor's Center to keep the momentum going for local businesses and the Town.

(Note: Resolution 04-G-18 is provided for record purposes only.)

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**04-G-18 Resolution, Solicitation of Comments from the Public,
Proposed FY 2004-2005 Annual Budget.**

The Town of Herndon is seeking citizen input for the overall guidance in the preparation of programs to be contained in the FY 2004-2005 budget.

Ordinance 03-O-36, Amending Chapter 6 (ANIMALS), Sections 6-1 (Animal Control Code Adopted) & 6-3 (Keeping of Fowl).

(Note: At the Town Council's meetings of November 14, 2003 and January 13, 2004, action was taken to continue the public hearings to allow additional time for staff to resolve outstanding issues.)

A Certificate of Publication was filed from the Editor of the *Herndon Observer* newspaper showing that notice of said public hearing had been duly advertised in the January 30, 2004 issue.

Richard B. Kaufman, Town Attorney, briefly outlined his memorandum of January 29, which is on file in the Town Clerk's office. The main features of the proposed ordinance, which was prepared at the Council's direction include:

- a. Prohibits more than three female fowl, or more than three female water fowl, or together more than three fowl or water fowl, or any male fowl, or any male water fowl, or any guinea fowl.
- b. Defines "Fowl" as any domesticated gallinaceous bird, including chickens, or roosters, or both. "Water fowl" means any domesticated duck, goose, or swan.
- c. Prohibits any fowl or water fowl to run at large in the Town. "To run at large" means to roam, run or self-hunt off the property of the owner or custodian of a fowl or water fowl and not under such owner's or custodian's immediate control.
- d. Requires a structure used for confining, accommodating, or sheltering fowl or water fowl no closer than 10 feet from any lot line.
- e. States that violation of this section constitutes a class 3 misdemeanor.

Mr. Kaufman stated an amendment to Section 6-3(a) Keeping of Fowl, has been added to ensure there will be no confusion in the amount of water fowl and fowl that is to be allowed in a single residence. Staff recommends approval, as presented.

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Following the public hearing (there were no comments from the audience), Vice Mayor Bruce moved approval of Ordinance 03-O-36, regulating the keeping and prohibiting the running at large of fowl in the Town with the following revisions:

- **REVISE** Section 6-3 (Keeping of fowl), paragraph (a), to read:

“(a) It is prohibited and unlawful to keep in the town more than one ~~three~~ female fowl, or more than one ~~three~~ female water fowl, ~~or together more than three fowl or water fowl,~~ or any male fowl, or any male water fowl, or any guinea fowl.”

This motion was seconded by Councilman Husch.

Councilman De Noyer stated he would not be able to support the motion because there are enough ordinances on record concerning noise, sanitary conditions, health conditions, public nuisances, etc. that would cover anything a chicken could do.

Councilwoman Hutchinson expressed her opposition of the ordinance stating it is not necessary to eliminate the keeping of chickens for food producing or other purposes.

Councilman Reece expressed his support for the ordinance based on his personal experience and he stated he does not feel raising chickens for any reason is appropriate in the Town. He stated the Town has bigger problems to deal with than chickens and it is time to pass this ordinance and move on.

The question was called on the motion, which carried by a vote of 5-2. The vote was:

Councilmembers:

Bruce	yes
De Noyer	no
Husch	yes
Hutchinson	no
O'Reilly	yes
Reece	yes
Mayor Thoesen	yes

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03-O-36 Ordinance, An Ordinance Regulating the Keeping and Prohibiting the Running at Large of Fowl in the Town.

BE IT ORDAINED by the Council for the Town of Herndon that:

1. Section 6-1, **Animal control code adopted**, Herndon Town Code (2000), as amended, is amended and reordained as follows:

Sec. 6-1. Animal control code adopted.

The provisions of chapter 41, animals and fowl, of the Fairfax County Code are hereby incorporated by reference, with the exception of the references to the zoning chapter. All references to the zoning chapter shall mean the zoning ordinances of the town. All such animal control code violations shall cite the applicable section of the Fairfax County Code.

2. The Herndon Town Code (2000), as amended, is amended and reordained by the addition of new § 6-3, **Keeping of fowl**, as follows:

Sec. 6-3. Keeping of fowl.

- (a) It is prohibited and unlawful to keep in the town more than one female fowl, or more than one female water fowl, or any male fowl, or any male water fowl, or any guinea fowl.
 - (b) “Fowl” means any domesticated gallinaceous bird, including chickens, or roosters, or both. “Water fowl” means any domesticated duck, goose, or swan.
 - (c) It is prohibited and unlawful to allow or cause any fowl or water fowl to run at large in the Town. “To run at large” means to roam, run or self-hunt off the property of the owner or custodian of a fowl or water fowl and not under such owner’s or custodian’s immediate control.
 - (d) A structure used for confining, accommodating, or sheltering fowl or water fowl may be located no closer than 10 feet from any lot line.
 - (e) Violation of this section constitutes a class 3 misdemeanor.
3. This ordinance shall be in effect on and after the date of its adoption for offenses committed after its date of adoption.
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9. RECESS

At 8:50 p.m., the meeting recessed briefly, and at 9:02 p.m., reconvened in the Council Chambers, with all members being present and with Mayor Thoesen presiding.

10. PUBLIC HEARINGS (CONTINUED)

Resolution 04-O-07, Zoning Map Amendment, ZMA #03-101, Little Street Assemblage.

Certificates of Publication were filed from the Editor of the *Herndon Observer* newspaper showing that notice of said public hearing had been duly advertised in the January 23 and January 30, 2004 issues.

Michelle M. O'Hare, Comprehensive Planner, presented the staff report dated February 3, which is on file in the Town Clerk's office. This is an application to change the zoning classification of the properties. The applicant proposes to rezone the property from Residential District, R-10 to Townhouse Cluster Residential District, RTC-10 to build 42 townhouse units at a resulting density of 8.60 dwelling units per acre. Under the current R-10 zoning, single-family residential development is permitted at a maximum density of four units per acre on a minimum lot size of 10,000 square feet. Under the proposed RTC-10 zoning, single-family attached residential development would be permitted at a maximum density of 10 dwelling units per acre, with no required minimum lot size. The applicant proposes proffered conditions to accompany the rezoning application. The property is designated in the Herndon 2010 Comprehensive Plan as "Adaptive Area" and is subject to the Compatibility Guide, the Evaluation Guidelines for Adaptive Areas and the Redevelopment and Infill Guidelines.

Ms. O'Hare outlined the revised Generalized Development Plan and proffers dated February 5. She stated staff requested Council to make a determination whether compensation is required for the vacation of Little Street.

Ms. O'Hare presented the Planning Commission and staff recommendations. At its meeting of January 5, the Planning Commission recommended approval of ZMA #03-101 (having 43 units), with the following additional conditions agreed to by the applicant:

1. Provide a landscaped median at the site entrance.
2. Proffer the architectural elevations provided at the January 5, 2004 Planning Commission public hearing.

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3. Relocate the utilities in the southeastern corner to provide a solid landscape buffer of trees.
4. Provide four foot balconies on all rear-loaded units.
5. Amend the landscape plan to remove landscaping from the elm tree's drip line.

Ms. O'Hare briefly outlined the Director of Community Development's memorandum of February 6 to the Town Manager responding to issues raised at the Council's previous work session. The proffers subsequent to the work session were revised and copies of the revised proffers dated February 5 were provided to Council.

Staff recommends approval of the application as presented in accordance with the revised proffers dated February 5.

Ms. O'Hare referenced a section in the Town ordinance for RTC-10 that states there cannot be more than 30 units accessing a driveway. A determination was made by the Zoning Administrator several years ago that a roadway is a public access easement and not a driveway and therefore, the 30 unit limitation does not apply. She reminded Town Council that it is their discretion as to whether two entrances are appropriate for this site.

In response to Councilwoman Hutchinson's request concerning the difference between a "private" street and a "public" street, Ms. O'Hare stated "private" streets do not have to meet the Virginia Department of Transportation's (VDOT) standard for width so they are generally narrower. The homeowners association would be required to maintain the "private" streets, not the Town. According to Town policy, however, trash trucks would have to go down the "private" streets for trash pickup.

Councilman De Noyer questioned how the private access easement differs from the public street? How much of the easement is a public access easement and who is responsible for snow removal on it?

Elizabeth M. Gilleran, Zoning Administrator/Senior Planner, indicated that a public street is owned and maintained by the Town and considered a public right-of-way. A public street must meet the requirements of VDOT. A private access easement is normally owned and maintained by a homeowners association. She stated all of the easement shown in the diagram is a public access easement and the homeowners association would be responsible for snow removal. Town vehicles would only enter for trash removal.

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Vice Mayor Bruce requested clarification of the section in the zoning ordinance indicating that “no driveway at its point of intersection with a public street shall provide access to more than 30 dwelling units.” She stated that in the February 1, 2002 decision a privately maintained public access easement is not a driveway. She stated she did not believe the intent in section 78-529 was to reference the pavement leading into a garage and requested an explanation as to why this situation is not applicable.

Ms. Gilleran stated the letter Vice Mayor Bruce referenced had to do with the Jonquil Lane development. She recapped, to the best of her recollection, the circumstances of that time in order to provide an explanation. She stated it was decided that if there was a question of ambiguity, a decision would be made in favor of the private property rights of the individual involved.

Mr. Kaufman agreed with Ms. Gilleran’s recollection. He stated he feels it is appropriate for staff, not necessarily Council, to maintain the same position in this instance as was decided in 2002. This does not affect, bind, or in any way control, a Town Council legislative decision. He stated Council is free to make its decision on any legitimate land use criteria.

Mr. Norman Hammer, attorney representing Stanley Martin, 447 Carlisle Drive, Herndon, provided comments on behalf of the applicant. He introduced the following individuals who were present for the meeting:

- Mr. Steven B. Alloy, President, Stanley Martin;
- Mr. Bob Statz, Vice President, Stanley Martin;
- Mr. Jim Reeve, Project Manager, Stanley Martin;
- Mr. Justin Mahlmann, Engineer, Bowman Consultants; and
- Mr. Chris Spahr, Engineer, Stanley Martin.

Mr. Hammer indicated the applicant first met with staff in January 2003 at which time staff concurred that townhomes were appropriate for this site in accordance with the Town’s comprehensive plan. He stated staff made it clear in the early meetings that all of the parcels would have to be included and consolidated in order to obtain a favorable recommendation. He stated this was done and many hours have been spent with staff working on this application, for which he expressed his appreciation. He stated both staff and the Planning Commission have recommended approval of the Zoning Map Amendment and the applicant is now requesting approval of the application.

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Mr. Hammer stated this is an adaptive, infill area. He stated the minimum distances between the proposed townhomes and the homes in Van Buren Estates are between 91 feet and 120 feet. He stated the required rear yard in an R-10 district is 25 feet, which makes houses 50 feet apart back to back. He stated the distance between the proposed townhomes and homes in the Downs subdivision is a minimum of 50 feet. He stated there are seven units less than the 49 maximum permitted by the ordinance, and therefore, the argument that the development is too dense is invalid.

Mr. Hammer stated there are two significant problems with Little Street that have plagued the Town and would continue to do so unless they are solved by this development. In the subdivision construction plans for Van Buren Estates, storm sewer easements were shown adjacent to Lot 10, and since they were shown on the approved construction plan, it was assumed that was where the storm drainage would go from the Little Street consolidation. In reality, those easements were never acquired and accordingly there are still drainage problems in that area. The proposed application deleted the southern most unit along that row and incorporated all of the necessary storm drainage to take it off the property and placed all easements in the Little Street Assemblage. He stated this construction would solve all of the drainage problems for that general area. In addition, the buffer between Van Buren Estates is greater than 90 feet and consists of a triple row of trees, shrubs, and a six-foot privacy fence. He stated the second major problem solved by this development is the elimination of the septic service business located on the Stewart property adjacent to lots 19, 20, and 21 of the Downs subdivision. The business is inconsistent with R-10 zoning and also inconsistent with the Town's comprehensive plan. The business was established prior to the zoning ordinance which prohibits it and therefore, it is a legal non-conforming business.

Mr. Hammer stated the ordinance requires 127 parking spaces, and the Little Street Assemblage is providing 161. He stated the covenant would require all of these spaces be used for parking and not storage or living space. This can be enforced by both the homeowners association and the Town as a zoning ordinance violation. He stated all traffic generation and circulation meets or exceeds public facility manual specification. He indicated the alley was shortened and a unit deleted on the west side at the request of the Planning Commission and staff. At the entry there are three lanes, including staff's recommendation of an extra exit lane and an island. A left turn lane from west bound Spring Street has been provided.

In summary, Mr. Hammer stated this development would enhance the property values of the adjacent single family properties since it would be resolving blight, drainage problems, the removal of the septic business, the compliance with the comprehensive plan, the density of 14.25 percent less than allowed for in the ordinance, abundant parking, and enhanced landscaping and buffering.

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Mr. Alloy stated Stanley Martin has been a local homebuilder since 1966 and has been building in the Town of Herndon for many years. He stated the company wants the neighborhoods they build to be a source of pride. He stated the company lives up to the commitments it makes and would do so with Little Street. He stated he is very proud of what Stanley Martin does.

Mr. Alloy stated the property owners on Little Street approached Stanley Martin in February 2002 and that there was no highest bidder process. He stated it took until April 2003, for Stanley Martin to submit a rezoning plan because not all property owners wanted to sell their property. After meeting with staff, Stanley Martin was told the project needed full consolidation. He indicated the revitalization of Little Street is an important aspect to why he feels this rezoning should be approved. The land is currently worth more than the houses on Little Street. He stated this is the first section of residential properties people see when they enter the Town from that direction and it definitely needs improvement. He stated the owners of these properties originally purchased them with the idea that the property would eventually go commercial. Since Van Buren Estates was accessed through a single family development, it made sense that single family homes were built there. Little Street, on the other hand, is completely precluded from the single family detached area. Therefore, the Planning Commission concluded this would become a townhouse application.

Mr. Alloy explained that existing Little Street would have to be relocated and aligned with Spring Park Glen and brought up to current standards. Turn lanes on Spring Street would have to be installed, all of which cost an enormous amount of money. The only way to cover the costs associated with all this is through density which is why townhomes are being proposed. The traffic consultants determined that adding a second entrance into the development would be a negative factor for the Town and therefore, the decision was made not to.

The public hearing was held and the following individuals presented testimony:

- Mr. Wayne Weaver, 474 Little Street, Herndon, expressed his support for Resolution 04-O-07, Zoning Map Amendment, ZMA #03-101, Little Street Assemblage.
- Ms. Elizabeth Toth, resident of the Downs, Lot #21, expressed her opposition for Resolution 04-O-07, Zoning Map Amendment, ZMA #03-101, Little Street Assemblage.
- Ms. Ginger Hunsaker, 1204 Bicksler Court, Herndon, expressed her opposition for Resolution 04-O-07, Zoning Map Amendment, ZMA #03-101, Little Street Assemblage.

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- Mr. Edward Ruiz, 426 Old Dominion Avenue; Herndon, expressed his support for Resolution 04-O-07, Zoning Map Amendment, ZMA #03-101, Little Street Assemblage, and he summarized a letter that was submitted on behalf Mr. Thomas and Barbara Kellner, 424 Old Dominion Avenue (a copy is on file in the Town Clerk's office), expressing their support for Resolution 04-O-07, Zoning Map Amendment, ZMA #03-101, Little Street Assemblage.
- Mr. Justin Rackowski, 415 Sugarland Meadow Drive, Herndon, expressed his opposition for Resolution 04-O-07, Zoning Map Amendment, ZMA #03-101, Little Street Assemblage. He requested a show of hands for those in the audience opposed to the proposal.
- Mr. Richard Downer, 609 Center Street, #203, Herndon and 745 Eagle Street, Woodstock, expressed his support for Resolution 04-O-07, Zoning Map Amendment, ZMA #03-101, Little Street Assemblage.
- Mr. Dennis Baughan, 494 Alabama Drive, Herndon, expressed his opposition for Resolution 04-O-07, Zoning Map Amendment, ZMA #03-101, Little Street Assemblage.
- Mr. Em Marsteller, 412 Sugarland Meadow Drive, Herndon, expressed his opposition for Resolution 04-O-07, Zoning Map Amendment, ZMA #03-101, Little Street Assemblage.
- Mr. William B. Tirrell, Sr., 1016 Page Court, Herndon, stated his position has already been made a matter of record and offered several different perspectives on previous discussions.
- Mr. David Kirby, 1303 Benicia Lane, Herndon, expressed his opposition for Resolution 04-O-07, Zoning Map Amendment, ZMA #03-101, Little Street Assemblage.
- Mr. Phillip Brooks, 405 Greear Place, Herndon, expressed his opposition for Resolution 04-O-07, Zoning Map Amendment, ZMA #03-101, Little Street Assemblage.
- Mr. Milton Wolf, 473 Little Street, Herndon, expressed his support for Resolution 04-O-07, Zoning Map Amendment, ZMA #03-101, Little Street Assemblage.
- Mr. Earl White, 638 Oak Street, Herndon, expressed his support for Resolution 04-O-07, Zoning Map Amendment, ZMA #03-101, Little Street Assemblage.

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- Mr. Ted Britt, representing himself and his father as owners of properties at Little Street, expressed their support for Resolution 04-O-07, Zoning Map Amendment, ZMA #03-101, Little Street Assemblage.
- Mr. Konard Wojcicki, 409 Sugarland Meadow Drive, Herndon, expressed his opposition for Resolution 04-O-07, Zoning Map Amendment, ZMA #03-101, Little Street Assemblage.
- Ms. Ann Null, 631 Oak Street, Herndon, expressed her opposition for Resolution 04-O-07, Zoning Map Amendment, ZMA #03-101, Little Street Assemblage.
- Mr. Ralph Weaver, 474 Little Street and 601 Center Street, Herndon, expressed his support for Resolution 04-O-07, Zoning Map Amendment, ZMA #03-101, Little Street Assemblage.

Mr. Alloy explained that in Virginia, townhomes cannot be served by a public street because VDOT has set standards as to how close driveways can be and since the proposed townhomes have garages that are close in proximity they cannot be served by a public street. He indicated all townhomes built in Virginia are built on private streets. He stated the difference in the ordinance interpretation regarding no more than 30 homes being accessed by a driveway is because there is confusion between “driveway” and “private drive.” The access to homes is via private streets.

Mr. Alloy stated there are trees that Stanley Martin will try to save, in addition to the many more that will be planted. He stated this area has been in the Town plan as an adaptive use area. He stated there is a higher chance of renters being in the current situation than in luxury townhomes. He stated it will be far prettier to have the proposed open area and trees with townhomes on the other side than to have single family homes, siding to siding, abutting Van Buren Estates and the Downs.

Mr. Alloy stated Stanley Martin is actually solving some very big problems for the Town with the proposal. The non-conforming use, the existing drainage problems, and the transportation issues are all going to go away with this proposal. He stated the reason Stanley Martin is in a rush to get this done is because they currently they have full consolidation from the property owners. He stated Herndon got it right when they decided not to try to manage schools, which are Fairfax County issues, but to plan and manage density issues within the Town. There are very few areas in Town left that will accommodate high density. Once they are developed, high density development will stop. The local schools would not be impacted by this development.

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In conclusion, Mr. Alloy stated he feels this development is good for the Town and that it will be a good gateway from the east into the Town.

Main Motion: (subsequently substituted)

Councilwoman Hutchinson moved to continue Ordinance 04-O-07 for 60 days to allow additional time to resolve outstanding issues.

Subsequently, Councilwoman Hutchinson amended her motion to continue the public hearing on Ordinance 04-O-07 for 90 days to allow additional time to resolve outstanding issues. However, following input from the applicant, Councilwoman Hutchinson further amended her motion to deny Ordinance 04-O-07. This was seconded by Vice Mayor Bruce for purposes of discussion.

Councilwoman Hutchinson stated the density for this development is too much of a change for the general area.

Vice Mayor Bruce stated she believes this is a good plan with high end townhomes and that it would alleviate many of the Town's problems. She feels it would be an asset to the neighbors and does not believe the property is suitable for single family homes due to lack of access. She would like to see the applicant look at the density issue. She expressed her concern that this proposal, as it is currently presented, violates the Town's zoning ordinance. Therefore, she cannot support the proposal as it is presented.

Following discussions concerning the continuation of the public hearing, Mr. Alloy requested the hearing be continued to the first public hearing in March. Since Mayor Thoesen would not be present at that meeting, Mr. Alloy agreed to a continuation until March 23.

Councilman Reece stated that a staff report was provided indicating there are only four R-10 locations in the adaptive area category in Town. He indicated he does not foresee any future Council entertaining motions to rezone single family detached homes as people have suggested. He stated if the Town does not accept this proposal, the Town will regret it later.

Mayor Thoesen stated this is a difficult application for the entire community. He initially thought the community would embrace it. He stated this is a quality project by Stanley Martin who has an excellent reputation. He indicated that his main concern is how to be fair to the existing neighbors and not deteriorate their quality of life or value of their land. He stated he feels this project would increase the value of their land, assuming they are not encumbered by it. He stated he hopes everyone realizes that Council is giving this much thought and they are not going to rush to kill the plan nor are they going to rush and embrace it either. He expressed his support of continuing the public hearing until March 23.

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Substitute Motion: (subsequently approved)

Councilman De Noyer moved a **SUBSTITUTE** motion to continue the public hearing on Ordinance 04-O-07 until March 23, to allow additional time for staff and the applicant to resolve outstanding issues. This motion was seconded by Councilwoman Hutchinson and **CARRIED** by a vote of 7-0. The vote was:

Councilmembers:

Bruce	yes
De Noyer	yes
Husch	yes
Hutchinson	yes
O'Reilly	yes
Reece	yes
Mayor Thoesen	yes

Mayor Thoesen announced a brief recess.

11. RECESS

At 11:35 p.m., the meeting recessed briefly, and at 11:46 p.m., reconvened in the Council Chambers, with all members being present and with Mayor Thoesen presiding.

12. PUBLIC HEARINGS (CONTINUED)

Resolution 03-G-148, Preliminary Subdivision Plan, Town Plan #03-21, Eldenwood Farm.

(Note: At the Town Council's meeting of December 9, 2003, action was taken to continue the public hearing for 60 days to allow additional time for the applicant and staff to resolve outstanding issues.)

Certificates of Publication were filed from the Editor of the *Herndon Observer* newspaper showing that notice of said public hearing had been duly advertised in the January 23 and January 30, 2004 issues.

Henry G. Bibber, Director of Community Development, presented the staff report dated February 3, which is on file in the Town Clerk's office. This is an application to allow the subdividing of four existing parcels into six lots that would accommodate two existing homes and four new homes. Exterior improvements would be made to the two existing homes. A waiver is requested from Section 70-155(a) of the subdivision ordinance that requires that lots not contain peculiarly shaped elongations solely to provide necessary square footage

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of area. A second waiver is requested from Section 70-158 of the subdivision ordinance that requires that overhead utilities be placed underground if the applicant relocates the utilities.

Mr. Bibber requested Council to give some indication to Community Development (CD) as to whether Council wants CD to work with the applicant to relocate the proposed storm drainage detention basin. He indicated the disadvantage in doing so would be the loss of the large tree on the property. The other change added to the proposed resolution is the addition of a two year resolution, item #4, which specifically mentions the commitment of the developer to make the improvements to the two existing homes. Mr. Bibber stated a factor to consider with this subdivision is that two existing homes are located on lots that are substandard in several respects, according to the zoning ordinance (lot width, building setback). Several of these substandard characteristics will be eliminated in the proposed subdivision action. The proposed preliminary subdivision plan complies with the requirements of the subdivision ordinance, the zoning ordinance, and the Town's public facilities manual, with the exception of the issues for which waivers are required.

In summary, Mr. Bibber presented the Planning Commission and staff recommendations. At its meeting of November 3, 2003, the Planning Commission recommended approval of the preliminary subdivision plan with waivers. Staff recommends approval of the preliminary subdivision plan, with the following waivers:

1. Waiver of Section 70-155 of the subdivision ordinance, which prohibits peculiarly shaped elongations of lots in order to achieve minimum lot size. This waiver will enable the applicant to obtain approval for six lots instead of five lots. Lot 3 will be the peculiarly elongated lot. This is one of the lots containing one of the two existing heritage structures. Section 70-50 of the Subdivision Ordinance states that "the Town Council may require as a condition of any such waiver, the dedication or construction, or an agreement to dedicate or construct, such improvements as may be reasonably required to ensure the attainment of the purposes of this chapter." The applicant's proposal for making external improvements to the two existing homes appears to constitute an agreement to construct improvements required to ensure the attainment of the purposes of the Subdivision Chapter. These purposes include the compliance with all elements of the Town's comprehensive plan and zoning ordinance. Both the zoning ordinance and the comprehensive plan call for the preservation of older homes in the Heritage Preservation District, within which this property is located. The applicant is proposing to rehabilitate the exteriors of these two existing homes if the waiver is granted.
2. Waiver of Section 70-158 of the subdivision ordinance, which requires that overhead utilities be placed underground if the utilities are relocated. There is

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a power pole at the intersection of Center and Locust Streets that must be relocated by about 25 feet, in order to accommodate street improvements. The undergrounding of utilities from the three adjacent poles would be contrary to the purposes of the ordinance, as it would increase the number of power poles in this area. If the undergrounding were extended farther away from the site, the number of utility poles could be reduced, but this extended distance would be more than the Town could legitimately require, in that the cost of this improvement must bear some proportionality to the impact of the project on the Town.

Vice Mayor Bruce indicated her recollection was for staff to work with the developer to look at options concerning the tree.

John L. Dudzinsky, Community Forester, stated the tree is not in very good condition and is deteriorating. He indicated the tree would need to be looked at again to see if it could be saved.

In response to a question from Mayor Thoesen, Mr. Bibber stated that the Department of Public Works is reluctant to issue a storm water management waiver for this property because they do not want to set a precedent. He stated the Director of Public Works is entitled to grant a waiver if it is justified. The approval of the subdivision will not preclude the opportunity for a storm water management waiver.

In response to queries from Councilman De Noyer, Mr. Dudzinsky stated the tree is sixty inches in diameter.

Councilman De Noyer stated he feels the storm water management should be located in the lower part of the property since water runs downhill.

Councilwoman Hutchinson questioned if the driveway on Lot #4 could be moved to the opposite side to be further away from the intersection, and if not, would it be possible to have some type of turn-around so vehicles would not back out onto Center Street?

Mr. William Lang, representing the Lawrence Doll Company, stated it would be difficult to move the driveway on the property located at the corner of Center and Locust Streets because of a bus stop on Center Street and various property lines and tree lines. He stated that from marketability standpoint, a turn around is not advisable since yard would have to be sacrificed.

The public hearing was held and the following individual presented testimony:

- Mr. Richard Downer, 609 Center Street, #203, Herndon and 745 Eagle Street, Woodstock, expressed his concerns regarding the location of the driveway entrance and suggested it be relocated to the least traveled street. He stated he

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feels a center drive, exiting onto Center Street, would sufficiently serve the proposed houses.

Following the public hearing, Councilman Reece moved approval of Resolution 03-G-148, approving the preliminary subdivision plan, Town Plan #03-21, Eldenwood Farm, including the waivers to permit a peculiarly shaped elongation of one lot and to permit overhead wires to remain above ground. This motion was seconded by Vice Mayor Bruce.

Councilman O'Reilly stated the proposed application offers tremendous benefits to the Town and he expressed his support for Resolution 03-G-148.

Mayor Thoesen expressed his support for the proposed resolution and stated the applicant and staff have worked very closely to get this subdivision right.

Vice Mayor Bruce expressed her appreciation to the Doll Companies for rethinking the project and she stated it is a real plus for the Town.

The question was called on the motion, which carried by a vote of 7-0. The vote was:

Councilmembers:

Bruce	yes
De Noyer	yes
Husch	yes
Hutchinson	yes
O'Reilly	yes
Reece	yes
Mayor Thoesen	yes

03-G-148 Resolution, Application for Preliminary Subdivision Plan, Eldenwood Farm, Town Plan #03-21, Including a Waiver to Section 70-155 to Permit a Peculiarly Shaped Elongation of One Lot and a Waiver to Section 70-158 to Permit Relocated Utilities to Remain Above Ground; Located at 801 and 803 Elden Street and Including Vacant Property Fronting on the 600-Block of Center Street and 800-Block of Locust Street.

WHEREAS, an application for a Preliminary Subdivision Plan, Town Plan #03-21, and waivers has been received for properties described as Fairfax County Tax Map 16-2, ((2)), parcels 70, 71, 72 and 73, and

WHEREAS, the Town staff has reviewed the subdivision plan and has found it to be in conformance with the Town's ordinances and policies,

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with the exception of the requirement for waivers to Section 70-155 and Section 70-158 of the Subdivision Ordinance; and

WHEREAS, the Planning Commission has recommended that the Preliminary Subdivision Plan and the waivers be approved; and

WHEREAS, the Town Council has held a public hearing on this matter on December 2, 2003.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Herndon, Virginia, that:

1. The Town Council approves the Preliminary Subdivision Plan for Eldenwood Farm, Town Plan #03-21, as set forth in the Plan received by the Town on January 12, 2004. This approval is contingent upon compliance of the plan with all other applicable codes and ordinances and upon final administrative review and approval of the Town staff.
2. The Town Council finds that the granting of the waivers as requested by the applicant to Section 70-155 and Section 70-158 of the Subdivision Ordinance will not be of substantial detriment to property adjacent to or in the same vicinity as the subject property, and that the purposes of the Subdivision Chapter will not be adversely affected by the granting of the waivers.
3. The Town Council approves the waivers as requested by the applicant to Section 70-155 and Section 70-158.

The Town Council as a condition to the waivers requires the agreement evidenced in the letters dated October 16, 2003 and January 28, 2004 from Mr. Lange of Lawrence Doll Homes, L.L.C. to the Town for the construction of the rehabilitation of the two existing houses on the site in accordance with these letters.

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Resolution 04-G-19, Conditional Use Permit Application, CUP #03-9, Paul Brothers of Virginia, Parking for Vehicle Sales.

Certificates of Publication were filed from the Editor of the Herndon Observer newspaper showing that notice of said public hearing had been duly advertised in the January 23 and January 30, 2004 issues.

Dana C. Stidham, Planner, presented the staff report dated February 3, which is on file in the Town Clerk's office. This is an application for a conditional use permit that would allow temporary parking for vehicle sales, at 786-782 and a portion of 770 Elden Street. The location is at the western entrance to the downtown at the transition point between established residential homes and the traditional downtown commercial area. This parcel is surrounded by existing auto dealer uses to the north, south, and west, and a church to the east.

The temporary parking conditional use permit is intended to provide flexibility and non-permanent conditions. This proposal must meet all of the specific conditional use permit ordinance requirements for temporary parking lots, some of which involve a relaxation of the normal requirements for permanent development. Those requirements are outlined below:

1. The need for such temporary parking shall be established - The Town has purchased the land on which the applicant has informally stored vehicles for many years.
2. Such parking area shall be permitted initially for not more than five years - The application is for a maximum of five years.
3. Extension periods of no more than two years each may be granted upon application by the property owner. However, the requirements for pavement, landscaping, lighting, drainage and other improvements shall be subject to revision each time an extension is granted - not applicable.
4. A parking space in such area may serve as a required parking space, during the period that temporary spaces may be allowed - not applicable.
5. Such parking area shall meet all dimension requirements for parking spaces, aisles, entrances, and sight distances - The staff recommends that the parking area meet the ordinance requirements.
6. Such parking area shall be paved, lighted and provide adequate erosion and sedimentation controls and drainage facilities as required by the Department of Public Works - The staff recommends that the parking area be paved, with lighting so as not to intrude on surrounding residential properties, and that storm water management include detention and water quality controls.

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7. Such parking shall be screened and landscaped as required by the Town Council. Such screening and landscaping shall take into account the existing adjacent uses, the size, dimensions and location of the property and other related factors, and shall not be subject to the requirements of article XIII of this chapter for landscaping or any landscaping or screening requirements of the district within which the parking area is located - The staff recommends a screening buffer that is more flexible than that required by the ordinance. However, the lack of interior parking lot landscaping justifies the need for more exterior landscaping, along the buffer.
8. Such parking shall be maintained in a state of good repair and free of trash, debris and inoperative vehicles – not applicable.
9. Within 60 days of expiration of the conditional use permit, the property on which a temporary parking area is located shall either be restored to an undeveloped, stable condition or redevelopment in accordance with an approved site plan shall be under way unless an extension application has been filed with the Town – not applicable.
10. No such parking area shall be used as a commercial venture for paid parking – not applicable.

Buffering

The portion of the site that is visible from the adjacent residential properties on Center Street should be well screened. The most appropriate buffer for this area is that required by the ordinance – a ten foot buffer with evergreen trees planted 10 feet on center. The staff recommends that the evergreen buffer on Center Street extend north of the proposed driveway curb cut. South of the curb cut, staff recommends either the standard evergreen buffer or a ten-foot buffer with deciduous trees 20 feet on center, and an evergreen shrub hedge. The staff recommends that the applicant not be required to install a four foot wall, as otherwise required by the CCD section of the ordinance.

Streetscape Improvements

The staff does not consider it necessary to require the applicant to install the planned streetscaping for Elden Street and Center Street, along the edge of this property. However, the staff recommends that the applicant dedicate 12 feet of right of way along Elden Street. This is based on the ZOTA 03-03 setback regulations for the Central Commercial District, and will allow the Town to install streetscape improvements on Elden Street as well as a bus shelter or bench at the existing bus stop. At this time, this property extends almost to the curb on Elden Street.

Staff recommends that if the proposal is extended beyond five years, that the applicant be required to install the planned streetscape improvements.

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Closing of Existing Entrance on Center Street

There was discussion at the Planning Commission work session about closing the existing commercial entrance on Center Street, because it is directly across the street from a residence. However, there were advantages and disadvantages to both the existing and proposed entrances, and staff is no longer recommending that either entrance be closed.

Lighting

Staff is prepared to support security lighting for this site, provided that it is not facing towards Center Street and is not excessively bright. According to the Town's standards, all direct light rays from site lighting fixtures shall be confined entirely within the boundary line of the site and spillage of indirect light onto adjacent properties should not exceed 0.1 foot-candles for residential properties or 1.0 foot-candles for other uses, measured on the boundary line of the site. The staff recommends that the maximum height of light fixtures for the parking lot shall be fifteen feet. Lighting will be reviewed at Site Plan submission.

Curb and Gutter

Due to the temporary nature of the proposal, the staff does not recommend that the applicant be required to install curb and gutter along Center Street. The staff considers a rolled asphalt curb satisfactory for the parking lot. However, any application for extension of time should include reconsideration of the curb and gutter requirement along Center Street and within the parking lot.

Comprehensive Plan Conformance

The site is located in the area of the town designated by the Comprehensive Plan as "Herndon Downtown" and "Adaptive Area," It is surrounded by areas designated "Adaptive Area," "Community Facilities," and "Neighborhood Conservation." The proposal does not particularly conform to the Comprehensive Plan. Certainly, this should not become a permanent use.

The Downtown Overlay Policy suggests that the downtown area maintain an overall 25 percent of open space. It encourages a civic and retail focus, as well as compatibility with historic and residential areas. The staff's recommendations are intended, in part, to achieve compatibility with the Comprehensive Plan, while recognizing the temporary nature of the proposed use.

Public Facilities Manual Conformance

The proposal does not meet Public Facility Manual requirements for curb and gutter or lighting. However, in view of the temporary nature of the proposed use, modification of these requirements appears justified.

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Oak Tree

The proposal involves some disturbance of the ground within the drip-line area of the large oak tree that is in the public right of way near the intersection of Elden and Center Streets. The question here is whether or not all development associated with this proposal should be kept away from the drip line of this tree.

One factor to consider is that the Town's plan for streetscape improvements on Elden will seriously impact the root zone of this tree, unless an exceptional effort is made to avoid impacting the tree. A second factor to consider is what will happen when the Center Street/Elden Street intersection is improved, which will include substantial improvements to this part of Center Street. These improvements will encroach very seriously on the drip-line of the tree, even with a very deliberate effort to avoid removing the tree. Trees of this size and age are usually unable to survive for long when this kind of development occurs near them. A third factor is what will happen when permanent improvements are made to this property. While there are no plans for this development, there is no policy at this time that would designate this tree to be saved in such future development.

Given these factors, the staff recommendation is based on the premise that the tree should remain at least for the next five years or until the anticipated street improvements occur, but not for much longer than that. If the premise is to maintain the tree for as long as possible, then development associated with the current proposal should be kept out of the drip line of this tree.

Ms. Stidham presented the Planning Commission and staff recommendations. At its meeting of January 5, the Planning Commission recommended approval of the Conditional Use Permit Application CUP #03-09, with conditions. Staff recommends approval of the Conditional Use Permit Application CUP #03-09, in accordance with the following conditions:

1. In lieu of dedicating twelve feet of right of way and constructing the downtown streetscape along Elden Street, the applicant shall dedicate twelve feet of right of way along Elden Street.
2. In lieu of constructing the downtown streetscape along Center Street, the applicant shall construct a four-foot wide concrete sidewalk along Center Street.
3. In lieu of installing all landscaping materials as required by the Zoning Ordinance for permanent development, the applicant shall install (1) a ten-foot wide buffer of evergreen trees (six feet tall) planted ten feet apart along Center Street north of the driveway curb cut, and (2) a ten-foot wide buffer containing evergreen trees as described above or containing deciduous trees (three inches in diameter) twenty feet apart with an evergreen shrub screen south of the driveway curb cut and along Elden Street.

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4. The maximum height of light fixtures for the parking lot shall be fifteen feet.
5. The applicant shall carry out the arboricultural work prescribed by the Community Forester in order to minimize the impact of this development on the Town's Oak Tree, and shall locate the sidewalk within the Town's existing right of way on Center Street, where it will have the least impact on the tree, in the judgment of the Community Forester.

In summary, Ms. Stidham briefly outlined the Director of Community Development's, memorandum dated February 5, to the Town Manager, regarding several queries by members of the Town Council, which is on file in the Town Clerk's office.

Ms. Stidham indicated, in response to Councilman De Noyer's question, that the applicant has agreed to maintain the tree as recommended by the Town's Community Forester.

Mr. Grayson B. Hanes, attorney, law firm of Reed Smith, provided comments on behalf of the applicant and stated with him this evening is Mr. Ted Britt, President, Tri-Tek Engineering to answer any questions. Mr. Hanes stated the applicant agreed to the recommendations made by Mr. Dudzinsky concerning the oak tree even though the tree is not on the applicant's property, but rather in the Town right-of-way. With respect to the dedication along Elden Street, the applicant has agreed to a twelve foot dedication with a ten foot buffer back from that. He requested Council to consider and let them know, what type of trees they would like along Elden Street. He stated the applicant has met the requirements of Ordinance 78-98 and requested Council's approval of the application.

The public hearing was held and the following individual presented testimony:

- Mr. Richard Downer, 609 Center Street, #203, Herndon and 745 Eagle Street, Woodstock, expressed his support for Resolution 04-G-219, and stated it makes sense to have the business all on the same side of the street. He questioned what will happen between the sidewalk that will be constructed on Center Street and the existing asphalt edge?

Mayor Thoesen indicated that the project is only temporary and when redevelopment takes place, the asphalt edge will be taken care of.

Following the public hearing, Vice Mayor Bruce moved approval of Resolution 04-G-19, Conditional Use Permit Application, CUP #03-9, Paul Brothers of Virginia, to allow parking for vehicle sales. This motion was seconded by Councilman De Noyer and carried by a vote of 7-0. The vote was:

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Councilmembers:

Bruce	yes
De Noyer	yes
Husch	yes
Hutchinson	yes
O'Reilly	yes
Reece	yes
Mayor Thoesen	yes

04-G-19 Resolution, APPLICATION FOR A CONDITIONAL USE PERMIT, PAUL BROTHERS PARKING LOT: CU #03-09. Application for a Conditional Use Permit to Allow Temporary Parking for Vehicle Sales at 782-786 Elden Street, and a Portion of 770 Elden Street. Property Owner: Ashwell, L.C. Applicant: Grayson P. Hanes, Reed Smith, LLP.

WHEREAS, an application for a Conditional Use Permit, CU#03-09, to allow temporary parking for vehicle sales at 782-786 Elden Street, and a portion of 770 Elden Street, Tax Map Reference 16-2 ((2)) 27A, has been submitted; and

WHEREAS, the Planning Commission has reviewed this application and has held a public hearing in accordance with the provisions of Section 15.2-2204 of the State Code; and

WHEREAS, the Planning Commission has recommended that the application be approved with conditions; and

WHEREAS, the Town Council has reviewed the application and the Planning Commission's recommendations.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Herndon that:

1. The Town Council finds that:

The use of the property for a temporary parking lot will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use; and

The presence and operation of this use will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood; and

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The presence and operation of this use will not be in conflict with the purpose of the Comprehensive Plan of the Town of Herndon.

2. The Town Council approves Conditional Use Permit application CU#03-09 for a period of five years under the following conditions:
 - a. In lieu of dedicating twelve feet of right of way and constructing the downtown streetscape along Elden Street, the applicant shall dedicate twelve feet of right of way along Elden Street.
 - b. In lieu of constructing the downtown streetscape along Center Street, the applicant shall construct a four-foot wide concrete sidewalk along Center Street.
 - c. In lieu of installing all landscaping materials as required by the Zoning Ordinance for permanent development, the applicant shall install (1) a ten-foot wide buffer of evergreen trees (six feet tall) planted ten feet apart along Center Street north of the driveway curb cut, and (2) a ten-foot wide buffer containing evergreen trees as described above or containing deciduous trees (three inches in diameter) twenty feet apart with an evergreen shrub screen south of the driveway curb cut and along Elden Street.
 - d. The maximum height of light fixtures for the parking lot shall be fifteen feet.
 - e. The applicant shall carry out the arboricultural work prescribed by the Community Forester in order to minimize the impact of this development on the Town's Oak Tree, and shall locate the sidewalk within the Town's existing right of way on Center Street, where it will have the least impact on the tree, in the judgment of the Community Forester.
3. This conditional use permit runs with the land identified as a portion of Fairfax County Tax Map Reference 16-2-002-224, and is not transferable to other land.
4. The conditions of this Conditional Use Permit shall govern and take precedence over the Conceptual Development Plan submitted with this application.

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The Town Council may revoke this use permit following due process, if the Zoning Administrator determines that the use violates any of these conditions.

Resolution 04-G-20, Conditional Use Permit Application, CUP #03-10, Stone Property, Residential Development of a Non-Conforming Lot.

Certificates of Publication were filed from the Editor of the *Herndon Observer* newspaper showing that notice of said public hearing had been duly advertised in the January 23 and January 30, 2004 issues.

Elizabeth M. Gilleran, Senior Planner, presented the staff report dated February 3, which is on file in the Town Clerk's office. The proposed application is for a conditional use permit that would permit construction of a single-family house on a parcel that fails to meet the minimum lot width requirement of 105 feet. The width of the parcel is 100 feet along Monroe Street.

In accordance with Section 78-301(c), a pre-existing unimproved non-conforming lot may be developed even though it does not meet width or area requirements, provided that the parcel meets all other requirements of the zoning ordinance and a conditional use permit is granted. Section 78-100 states those findings that the Town Council must make in order to grant the conditional use permit.

In Section 78-100, residential development of an unimproved nonconforming lot, states: "The development of an unimproved nonconforming lot may be allowed only upon the granting of a conditional use permit by the Town Council after recommendation by the planning commission as specified in this subdivision and upon finding by the town council that: The development shall be consistent with the size, scale, mass location and development pattern (considering the existence of the nonconforming lot) of the development in the vicinity."

The proposed house is larger than the immediately surrounding structures, but several houses in the vicinity are equal to or larger than the proposed house. The applicant is proposing a colonial design, which will have traditional window and door arrangements. The proposed footprint is approximately 60 feet by 40 feet, with the longer dimension along Third Street, and the applicant may add a sunroom to the rear of the dwelling which would increase the footprint. An exposed foundation wall permitting a walkout condition is proposed for the Monroe Street elevation.

The lot is part of the Van Vleck's Subdivision. The subdivision dates to 1895. The current zoning requires a lot width of 105 feet for corner lots. The lot is 200 feet wide along Third Street, but has only 100 feet of frontage along Monroe Street. The lot meets all other requirements of the Zoning Ordinance including lot

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area. The lot consists of 20,000 square feet. The required minimum lot area for the R-15 zoning district is 15,000 square feet. The property is not located within the Heritage Preservation District.

The applicant received a variance to permit the proposed structure to encroach 10 feet into the required front setback along Third Street. The variance permits a 35-foot setback in lieu of the standard 45-foot setback.

Ms. Gilleran presented the Planning Commission and staff recommendations. At its meeting of January 5, the Planning Commission recommended approval of the Conditional Use Permit Application CUP #03-10, with the condition that the site grading shall be in substantial conformity with the plan submitted to the Department of Community Development on January 5, 2004. Staff recommends approval of the Conditional Use Permit Application CUP #03-10, in accordance with Alternative 2.

Approval of the conditional use permit with conditions based upon the determination that with conditions the proposed use will not be adverse to the purpose and intent of the Zoning Ordinance, in particular Section 78-100, Residential development of an unimproved nonconforming lot and that the Conditional use permit would not:

- a. Affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use;
- b. Be detrimental to the public welfare or injurious to property or improvements in the neighborhood; or
- c. Be in conflict with the purposes of the comprehensive plan of the town.

Councilman De Noyer questioned if any soil boring had been done on the property?

Ms. Gilleran stated that to the best of her knowledge, the applicant had not done any soil boring. They are trying to work with the natural topography of the site. Although excavation would be required for the basement, the land has quite a natural drop, so excavation would not be as great. She stated if there is a substantial drop in the grading plan, the applicant would be required to come before Council again.

Mr. John Stone, applicant, 20819 Wallingford Square, #104, Sterling, expressed his request for approval of Resolution 04-G-20, and stated he would be happy to answer any questions.

Following the public hearing (there were no comments from the audience), Vice Mayor Bruce moved approval of Resolution 04-G-20, Conditional Use Permit

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Application, CUP #03-10, Stone Property, residential development of a non-conforming lot. This motion was seconded by Councilwoman Hutchinson and carried by a vote of 7-0. The vote was:

Councilmembers:

Bruce	yes
De Noyer	yes
Husch	yes
Hutchinson	yes
O'Reilly	yes
Reece	yes
Mayor Thoesen	yes

04-G-20 Resolution, Application for a Conditional Use Permit CU #03-10, Stone Property Residential Development of a Non-Conforming Lot.

WHEREAS, the applicant, Jonathan Stone, has submitted a request for a Conditional Use Permit to permit the construction of a single family dwelling on a non-conforming lot located at the southeast corner of Third Street and Monroe Street, Herndon, VA 20170 and identified as Fairfax County Tax Map Reference 010-4-003-08, Parcel 5; and

WHEREAS, the Planning Commission has reviewed this application and has held a public hearing in accordance with the provisions of Section 15.2-2204 of the State Code; and

WHEREAS, the Planning Commission has recommended that the application be approved with conditions; and

WHEREAS, the Town Council has reviewed the application and the Planning Commission recommendations.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Herndon that it hereby grants Conditional Use Permit #03-10 with the following conditions.

1. The site grading shall be in substantial conformity with the plan submitted to the Department of Community Development on January 5, 2004.
2. This conditional use permit runs with the land identified as Fairfax County Tax Map Reference 011-3-009-4 and is not transferable to other land.

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3. The Town Council finds that the proposed development on the lot shall be consistent with the size, scale, mass, location, and development pattern (considering the existence of the non-conforming lot) of the development in the vicinity.

Ordinance 04-O-06, Mid-Year Budget Amendments, FY 2004 Adopted Annual Budget by Amending the General Fund, Water and Sewer Fund, Golf Course Fund and Capital Improvement Projects Fund to Provide the Financial and Personnel Adjustments.

(Note: The public hearing on this item was originally scheduled on Tuesday, January 27, however, that meeting was cancelled due to inclement weather conditions and all items were rescheduled to February 10.)

A Certificate of Publication was filed from the Editor of the *Herndon Observer* newspaper showing that notice of said public hearing had been duly advertised in the January 16, 2004 issue.

Mary K. Tuohy, Director of Finance, presented the staff report dated January 20, which is on file in the Town Clerk's office. During the first six months of each fiscal year, the Town Manager evaluates the current fiscal year's revenues and expenditures within the adopted budget and formulates mid-year budget amendment recommendations for the Town Council to consider. These recommendations are supported by existing and projected revenue trends and by current cost savings due to position vacancies or other areas with known cost savings.

In response to issues raised at the Council's work session of January 20, staff provided a memo dated January 23, to the Mayor and Town Council, providing additional information regarding the budget, which is on file in the Town Clerk's office.

Based upon the financial condition of the Town and the priorities the Town Council has established, the Town Manager formulates recommendations for funding. The following expenditure accounts are recommended for mid-year funding this fiscal year (FY 2004), along with a brief description of the nineteen mid-year budget proposals recommended for funding, deleting or transferring.

EXPENDITURE REQUESTS:

Town Administration/ Public Information

- Town of Herndon's 125th Anniversary Celebration – At the Town Council's August 5, 2003 work session, the Public Information Officer described various proposed activities in celebration of the Town's 125th anniversary.

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Budget information concerning the activities was also disseminated to the Council via e-mail on September 3, 2003. Among the recommendations is a Town-sponsored reception at the Herndon Municipal Center on January 14, 2004 followed by an afternoon celebration on Saturday, January 17th at the HMC/ Library complex culminating with a pyrotechnic display on the Village Green. Also recommended are special 125th Anniversary employee t-shirts; a \$2,500 stipend to defray costs of the Herndon Police Department 125th Anniversary banquet on February 28, 2004; and the design and production of special 125th Anniversary souvenirs, flags and other publicity expenses. Recommended funding is \$18,500.

- New Program – Cultivating Community Campaign – Working with the Neighborhood Enhancement Team (NET) and the Herndon Neighborhood Action Group (HNAG), staff has identified the need to implement a comprehensive public awareness campaign to serve as the umbrella identity that ties together the various neighborhood initiatives such as over occupancy enforcement, property maintenance, trash and recycling, the neighborhood inspection program, etc. Each neighborhood initiative will include the Cultivating Community slogan and logo on materials. In addition to developing a logo, t-shirts, banners and other campaign materials, the public information officer will be work closely with members of the Herndon Community Association Coalition (HCAC) and staff from NET and HNAG to make the Cultivating Community campaign a way to unify spirit and pride to participate in spring cleanup events and other beautification programs town wide possible. Total recommended funding is \$10,000.

Town Administration/ Information Technology

- Convert Temporary/Seasonal Position to Regular, Full Time – The Information Technology department provides an array of comprehensive support services to other Town information technology users, including a dedicated “help desk”. Over the past few years several different department functions, such as help desk and desktop support, installing new software, requisitioning for IT department purchases as well as general office duties have been staffed by a temporary/seasonal position. The level of demand for the position has grown to nearly a forty-hour workweek. It is recommended that this temporary/seasonal position be converted to regular, full-time status and titled “Help Desk Analyst”. Recommended funding for the remainder of FY 2004 is \$3,000.

Community Development

- Upgrade Office Assistant II/ Administrative Clerk position from part time to full time – As part of the FY 2004 Adopted Budget, Town Council approved the creation of a bi-lingual Community Inspector Assistant position to assist primarily, though not exclusively, with the administrative and clerical tasks of the

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Town's zoning inspection and enforcement activities. The position was filled in late September 2003 and has proven very effective in increasing the efficiency and effectiveness of the inspections functions, though little time could be devoted to other department tasks. The hiring of a second Community Inspector and the expansion of the Zoning Inspections program in general has created additional demands upon the department's administrative staff. The staff continues to find it unable to keep up with the department's other planning and zoning activities in a complete and timely manner. It is recommended that the department's current part time Office Assistant II/ Administrative Clerk position be upgraded to a full time position. Recommended funding for the remainder of FY 2004 is \$9,900.

Public Works

- Additional funding for fuel purchases – The Town's fleet of vehicles and contractor's equipment consumes approximately \$99,000 in diesel and unleaded fuels during a typical fiscal year. Fuel prices have continued to climb and current appropriations available to purchase new supplies will not be enough to adequately cover the remaining five months of the fiscal year. Recommended funding is \$17,000.
- Replace engines in backhoe and leaf machine – A 1992 backhoe, which is dedicated to street operations and is a critical piece of equipment in snow removal operations, requires a replacement engine at an approximate cost of \$18,000. With the engine replaced, the backhoe should be serviceable for another five to seven years. A 1994 leaf machine, which is also dedicated to street operations and used extensive during Spring and Fall Clean Up, also requires a replacement engine at an approximate cost of \$5,300. With the engine replaced, the leaf machine should be serviceable for another five years. Total recommended funding for both engine replacements is \$23,300.
- Additional funding for recycling tipping fees – Per ton fees charged for the recycling of vegetative materials (such as leaves, brush and yard waste) have increased overall by 44 percent since last fiscal year. At December 31, 2003, appropriations for recycling tipping fees was nearly exhausted, leaving no funding for anticipated tipping costs generated by the Town's upcoming Spring 2004 Clean Up. Recommended additional funding is \$12,000.

Grants

- The Town applied for and received a Virginia Department of Forestry grant, which will pay for the purchase of GPS and PDA (Personal Digital Assistant) hardware and software to be used in mapping and inventorying the Town's urban forest. This effort will then be incorporated into the Town's evolving GIS. Recommended funding is \$5,750 and will be full reimbursed by grant revenues of \$5,750.

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Interfund Transfer

- Additional funding for Runnymede Park capital project – At the December 9, 2003 public meeting, Town Council approved an amendment to the contract with HNTB Corporation, which incorporates exterior rehabilitation of the Carroll House into the original scope of design services at Runnymede Park. Cost of the additional design work, which is approximately \$21,900, is recommended for funding.
- Additional funding for acquisition, repair and renovation of Public Safety Center – At the December 9, 2003 public meeting, Town Council approved the purchase of real estate at 397 Herndon Parkway for use as a police facility. Earlier, at the November 25, 2003 public meeting, Town Council approved the issuance of \$8.5 million in bonds (with \$4.7 million issued as general obligation, tax-exempt bonds and \$3.8 million issued as taxable bonds) to partially fund the acquisition, repair and renovation of the building at 397 Herndon Parkway. Additional appropriations totaling \$1,000,000 are available as transfers from the Neighborhood Resource Center capital project (at \$950,000) and use of General Fund undesignated fund balance (at \$50,000). Total recommended additional funding for the Public Safety Center capital project is \$1.0 million.
- Delete FY 2004 funding for Herndon Community Center (HCC)/ Phase IV capital project – The Town's original FY 2004 Adopted Budget and Capital Improvement Program for FY 2004 – FY 2009 appropriated \$3.3 million to construct Phase IV of the Herndon Community Center. The source of financing for the construction was to be through a proposed bond issue of \$3.3 million. However, the bond issue actually secured, at a total of \$8.5 million, was redirected to the purchase and renovation of 397 Herndon Parkway. Construction of the HCC Phase IV is deferred for FY 2004 and will be reevaluated in formulating recommendations for the Town's upcoming CIP FY 2005 – FY 2010. Recommend deleting \$3.3 million in funding for FY 2004.
- Delete FY 2004 funding for Neighborhood Resource Center capital project – As explained in (b), above, funding for the purchase, repair and renovation of the building at 397 Herndon Parkway for police use contemplates the transfer of \$950,000 in appropriations originally budgeted for land acquisition. The land purchase would have been the first step in planning and constructing a new neighborhood resource center on Alabama Drive. Recommend deleting \$950,000 in funding for FY 2004.

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ADDITIONAL (REDUCED) GENERAL FUND REVENUE SOURCES:

Based on an analysis of General Fund revenues through December 31, 2003; revised revenue projections for the remainder of FY 2004 and the actual, audited financial results for the fiscal year ended June 30, 2003, it is recommended that the following revenue accounts be increased by the amounts specified:

Real Estate Taxes	\$ 44,000
Consumer Utility Taxes	74,500
Transient Lodging Taxes	47,100
Grants	5,750
Delete Herndon Community Center/ Phase IV Bond Issue	(3,300,000)

Net General Fund Revenue Reduction	\$ (3,128,650)
------------------------------------	----------------

WATER AND SEWER FUND

Expenditure Requests:

- Funding to undertake two Water Division studies – Additional funding is requested to prepare a water tank site master plan and a water system hydraulic model. These studies will assist in evaluating water quality and operations and in planning for water system emergencies and future development. Total recommended funding is \$65,000 (\$35,000 for the tank site master plan and \$30,000 for the water system hydraulic model).
- Additional funding for Water Division contract services – Projected costs for material disposal are anticipated to increase \$10,000 over last fiscal year due to a large number of water main breaks during the current fiscal year. Recommended additional funding is \$10,000.
- Additional overtime for Sewer Division personnel on-call provisions – The extremely rainy weather over the summer and fall activated an inordinate number of pump station alarms during non-working hours, which were then answered by the appropriate Sewer Division personnel. Answering alarms activated during non-working hours resulted in substantial overtime costs. Total recommended funding is \$8,000.
- Develop formal sewer infiltration and inflow (I&I) plan – Funds are requested for the development of a formal I&I plan which should assist in decreasing the Town's sewer conveyance charges and begin to build a data base for a future GIS. Recommended funding is \$5,000.
- Additional funding for sewer facility repairs and maintenance – Each year the Town undertakes sewer main rehabilitation along selected segments of the

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Town's 67 miles of sanitary sewer mains. Scheduled for sewer main relining this fiscal year are sections along Third Street, Elden Street, Herndon Parkway and Old Dominion Drive with costs totaling \$170,000. It is now recommended that \$20,000 be added to the expenditure account for relining fourteen manholes, due to their deteriorated condition. Recommended funding is \$20,000.

- Funds for correction of sanitary sewer main at 1021 Elden Street and 661 Fifth Street site – Town Council approved an escrow agreement with ESA Service, Inc. which corrects a problematic crossing of a storm drainage pipe with a sanitary sewer main located at the future site of the ESA Service, Inc. hotel. The agreement provides that the Town will pay for two-thirds of the project costs, which is \$130,000. Recommended total funding is \$130,000.

Additional Water and Sewer Fund Revenue Source:

- Based on the Water and Sewer Fund retained earnings balance as contained in the actual, audited financial results for the fiscal year ended June 30, 2003, it is recommended that \$238,000 of retained earnings be used as a funding source for the four requests previously outlined.

GOLF COURSE FUND

Budget Transfer Request

- Transfer \$10,500 from Golf Course Maintenance Facility capital project reserve account to Office Furniture/Equipment – Funds from this requested transfer would be used to purchase office and break room furniture, shelving, cabinets, storage units, and work benches for the new Golf Course maintenance facility. As stipulated in the Town's budget and fiscal policies, only Town Council has the authority to redirect available appropriations from reserve accounts due to a change in the original intent or purpose of the reserve. The capital project reserve account has a current available balance of \$54,426, which can be reallocated to other Golf Course uses. Recommended budget transfer is \$10, 500.

CAPITAL PROJECTS IMPROVEMENT FUND

Expenditure Request

- *See Interfund Transfers, under the "General Fund" section, for further details concerning this proposal.*

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Change to Capital Projects Fund Revenue Sources

Net reduction in FY 2004 transfers from General Fund	\$ (3,228,100)
2003 general obligation bond proceeds	8,500,000
 Total	 \$ 5,271,900

Ms. Tuohy stated staff recommends adoption of the proposed ordinance amending the General Fund, Water and Sewer Fund, Golf Course Fund and Capital Projects Fund to provide the personnel and financial adjustments needed to implement the Town Manager's recommended mid-year budget modifications.

The public hearing was held and the following individuals presented testimony:

- William B. Tirrell, Sr., 1016 Page Court, Herndon, stated that at the beginning of the year \$288,000 was allocated in the budget for funds from the cell phone tax. Since the Town does not collect from the cell phone tax, was it zeroed out of the budget?

Ms. Touhy stated Mr. Tirrell was correct in that the budget was not amended to show the adjustment not collecting the cell phone tax. She stated there would most likely be another budget amendment prior to the end of the year at which time the adjustment would be reflected.

Main Motion: (subsequently approved)

Following the public hearing (there were no comments from the audience), Councilman Reece moved approval of Ordinance 04-O-06 amending the Fiscal Year 2004 Adopted Annual Budget by amending the General Fund, Water and Sewer Fund, Golf Course Fund and Capital Improvement Projects Fund to provide the financial and personnel adjustments need to implement the Town Manager's recommended mid-year budget modifications. This motion was seconded by Councilman De Noyer.

Substitute Motion: (failed)

Councilman Husch moved a **SUBSTITUTE** motion to with the following revision

- To approve Ordinance 04-O-06, with the following revision:

DELETE, "Be It Further Ordained," paragraph, as follows:

~~"Be It Further Ordained that the Town of Herndon's Adopted Personnel Summary is hereby modified by the addition of a full-time Help Desk Analyst position in the Department of Information Technology and a full-time Office Assistant II/ Administrative Clerk position in the Department of Community Development."~~

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This motion was seconded by Councilwoman Hutchinson.

Councilman O'Reilly expressed his opposition to the substitute motion. He stated staff should decide which positions should be full time, not Council.

Mayor Thoesen expressed his opposition to the substitute motion.

Councilman Husch stated the position of Help Desk Analyst in the Department of Information Technology should be the number one priority in that department and should not be considered a temporary position.

The question was called on the substitute motion, which **FAILED** by a vote of 2-5. The vote was:

Councilmembers:

Bruce	no
De Noyer	no
Husch	yes
Hutchinson	yes
O'Reilly	no
Reece	no
Mayor Thoesen	no

The question was called on the main motion, which **CARRIED** by a vote of 5-2. The vote was:

Councilmembers:

Bruce	yes
De Noyer	yes
Husch	no
Hutchinson	no
O'Reilly	yes
Reece	yes
Mayor Thoesen	yes

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04-O-06 Ordinance, Amending the Fiscal Year (FY) 2004 Adopted Budget by Revising the General Fund, Water and Sewer Fund, Golf Course Fund and Capital Projects Fund to Provide the Financial and Personnel Adjustments Needed to Implement the Town Manager's Recommended Mid-Year Budget Modifications.

Recital

In adopting this ordinance, the Town Council has considered the Town Manager's recommended mid-year budget modifications as described in Attachment A, FY 2004 Budget Amendment Number 3 (Mid-Year).

BE IT ORDAINED by the Council of the Town of Herndon that the financial adjustments to the FY 2004 budget, as described in Attachment A, FY 2004 Budget Amendment Number 3 (Mid-Year), dated January 27, 2004, and incorporated as part of this ordinance, are hereby approved.

BE IT FURTHER ORDAINED that the Town of Herndon's Adopted Personnel Summary is hereby modified by the addition of a full-time Help Desk Analyst position in the Department of Information Technology and a full-time Office Assistant II/ Administrative Clerk position in the Department of Community Development.

This ordinance shall be effective on and after the date of its adoption.

ATTACHMENT A

January 27, 2004

FY 2004 Budget Amendment Number 3 (Mid-Year)

The following appropriations and revenue sources are amended:

GENERAL FUND

Increase (Decrease) Expenditure Appropriations:

Administration – Public Information	\$ 28,500
Administration – Information Technology	3,000
Community Development	9,900
Public Works	52,300
Grants	5,750
Interfund Transfers	<u>(3,228,100)</u>
Total	\$ <u>(3,128,650)</u>

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(public session)

Increase (Decrease) Revenue Projections:

Real Estate taxes	\$ 44,000
Consumer Utility taxes	74,500
Transient Lodging taxes	47,100
Grants	5,750
Transfer bond issue proceeds to CIP Fund	<u>(3,300,000)</u>
Total	<u>\$ (3,128,650)</u>

WATER AND SEWER FUND

Increase Expenditure Appropriations:

Sewer Division – operating account	\$ 13,000
capital account	150,000
Water Division – operating accounts	<u>75,000</u>
Total	<u>\$ 238,000</u>

Increase Revenue Account Budget:

Use of retained earnings	<u>\$ 238,000</u>
--------------------------	-------------------

GOLF COURSE FUND

Increase (Decrease) Expenditure Appropriations:

Golf Maintenance - capital account	\$ 10,500
reserve capital account	<u>(10,500)</u>
Total	<u>\$ 0</u>

CAPITAL IMPROVEMENT PROJECTS FUND

Increase (Decrease) Expenditure Appropriations:

Runnymede Park (Carroll House)	\$ 21,900
Public Safety Building	9,500,000
Remove FY 2004 funding – Herndon Comm. Center/ PH.4	(3,300,000)
Remove FY 2004 funding – Neighborhood Resource Center	<u>(950,000)</u>
Total	<u>\$ 5,271,900</u>

Increase (Decrease) Revenue Account Budget:

<i>Reduce FY 2004 transfer from General Fund</i>	<i>\$ (3,228,100)</i>
General Obligation bonds	<u>8,500,000</u>
Total	<u>\$ 5,271,900</u>

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13. CONSENT AGENDA

Resolution 04-G-21, Accepting a Donation from The Herndon Fortnightly Club of Herndon Toward Activities Celebrating the Town's 125th Anniversary;

Resolution 04-G-15, Referring a Zoning Ordinance Text Amendment to Add Police, Fire and Rescue Facilities to the Uses Permitted in the I-P District;
and

Resolution 04-G-22, Authorization for Competitive Negotiation to Acquire the Services of a Commercial Leasing Agent.

Councilman O'Reilly moved approval of the referenced items listed on the "Consent Agenda," without comment. This motion was seconded by Vice Mayor Bruce and carried by a vote of 7-0. The vote was:

Councilmembers:

Bruce	yes
De Noyer	yes
Husch	yes
Hutchinson	yes
O'Reilly	yes
Reece	yes
Mayor Thoesen	yes

04-G-21 Resolution, Accepting a Donation from The Herndon Fortnightly Club of Herndon Toward Activities Celebrating Town's 125th Anniversary.

WHEREAS, The Herndon Fortnightly Club approached the Town regarding a donation, in the amount of \$85, toward the activities celebrating the Town's 125th anniversary; and

WHEREAS, the Town of Herndon is proud of The Herndon Fortnightly Club, which was formed in 1889 and is the oldest active organization in the Virginia Federation of Women Clubs; and

WHEREAS, The Herndon Fortnightly Club has contributed significantly to Herndon's rich heritage and its valuable contributions to the community and continued support of The Herndon Fortnightly Library is greatly appreciated.

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NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby accepts the generous donation from The Herndon Fortnightly Club and expresses its appreciation for the club's financial support of the Town's 125th Anniversary.

04-G-15 Resolution, Referring to the Planning Commission a Zoning Ordinance Text Amendment to Permit Police Facilities and Offices in the Industrial Park, I-P, Zoning District, ZOTA #04-01.

BE IT RESOLVED by the Town Council of the Town of Herndon that:

1. The Town Council initiates consideration of an amendment to the Zoning Ordinance, Herndon Town Code (2000), as amended, to permit police facilities and offices in the Industrial Park, I-P, Zoning District.
2. This proposed amendment to the Zoning Ordinance is hereby referred to the Planning Commission for review and recommendation.
3. Public necessity, convenience, general welfare, or good zoning practice requires the Town Council's consideration of this proposed measure.

ATTACHMENT

TOWN OF HERNDON, VIRGINIA

DRAFT ORDINANCE

Ordinance - Amending the Zoning Ordinance to permit police facilities and offices in the Industrial Park District; ZOTA # 04-01.

In adopting this ordinance, the Town Council has considered the factors set out in § 15.2-2284, Code of Virginia (1950), as amended.

BE IT ORDAINED by the Council for the Town of Herndon that:

1. Section 78-966, Statement of Intent, Zoning Ordinance, Herndon Town Code (2000), as amended, is amended and reordained as follows:

February 10, 2004
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Sec. 78-966. Statement of Intent.

The I-P industrial park district is intended to permit, in accordance with the comprehensive plan, the development of an office or industrial park or other industrial or office development ~~containing not less than 25 contiguous acres under one ownership or control~~ and in areas provided with public water and sewer.

2. Section 78-967, Permitted uses, Zoning Ordinance, Herndon Town Code (2000), as amended, is amended and reordained as follows:

Sec. 78-967. Permitted uses.

All uses permitted by right must comply with the performance standards as outlined in article XI of this chapter and except as provided in subsection (9) below must be conducted within an enclosed building. The following are permitted uses in all I-P districts, subject to the approval of a site plan:

- (3) Any business or commercial establishment, which provides supplies ~~and/or~~ services primarily to uses permitted in the I-P zoning district, including office furniture, business machines and computers.

- (7) Outdoor eating facilities and service associated with an ~~established~~ established enclosed restaurant, as permitted under section 78-863(11).

- (8) Offices.

- (9) Police facilities with customary exterior elements, including fleet storage and kennels.

3. Section 78-970, Area regulations, Zoning Ordinance, Herndon Town Code (2000), as amended, is amended and reordained as follows:

Sec. 78-970. Area Regulations.

In I-P districts the minimum area for an industrial park shall be ten acres. The minimum lot size for an office development or industrial development, not an industrial park, building shall be one acre. The minimum lot size for a building to be used for assembly purposes or for warehousing shall be two acres.

4. This ordinance shall be effective on and after the date of its adoption.

February 10, 2004
(public session)

**04-G-22 Resolution, Authorization for Competitive Negotiation Process,
Commercial Leasing Agent.**

WHEREAS, the Town is acquiring property at 397 Herndon Parkway; and

WHEREAS, approximately 50 percent of the available space is not needed to support Town operations at this time; and

WHEREAS, the Town intends to lease the excess commercial space to other public or private entities using a commercial leasing agent; and

WHEREAS, the Town's procurement ordinance requires the use of competitive sealed bidding when acquiring goods and services, other than professional services, unless a written determination is made, in advance of a solicitation, that competitive sealed bidding is either not practicable or not fiscally advantageous to the public; and

WHEREAS, it is not possible to adequately specify the work associated with leasing commercial real estate so that potential bidders would be fully informed of the services to be provided; and

WHEREAS, bids received offering alternatives to the services specified are typically non-responsive and can not be considered; and

WHEREAS, competitive negotiation is a procurement process wherein a request for proposal is issued that states, in general terms, the work contemplated while also identifying evaluation criteria, to include price, if so stated, that will be used to evaluate proposals.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Herndon that competitive sealed bidding to obtain the services of a commercial leasing agent is neither practicable nor fiscally advantageous to the public.

BE IT FURTHER RESOLVED by the Town Council of the Town of Herndon that competitive negotiation may be used to obtain the services of a commercial leasing agent.

February 10, 2004
(public session)

14. ADJOURNMENT

There being no further business, the meeting adjourned at 12:42 p.m.

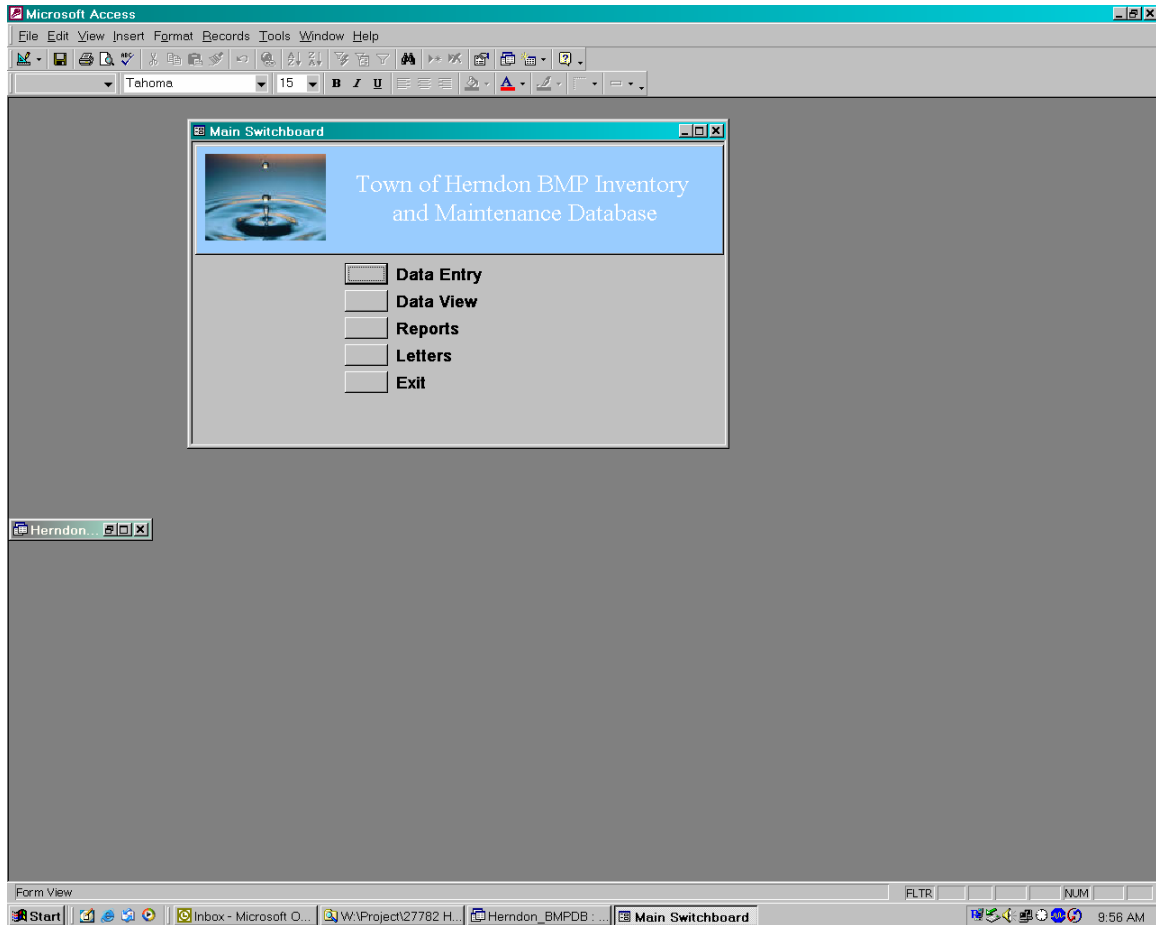
Richard C. Thoesen
Mayor

Margie C. Tacci
Acting Deputy Town Clerk

Minutes approved by Town Council: March 9, 2004

Appendix 5C

Screenshots from BMP Database



Microsoft Access

File Edit View Insert Format Records Tools Window Help

MS Sans Serif 8

tbl_GISLink

Inspection / Maintenance Records Data Entry Tool

BMP: 0163 02 0002B

Inspection ID: INSP00029

New Inspection Save Close

Navigation: Previous, Next, First, Last, Delete Record

Inspector Name	Bob Smithfield	Emergency Repairs Deadline	05/22/2004
Inspection Date	05/14/2004	Routine Maintenance Deadline	07/18/2004
Inspection Type	Routine	Satisfactory Inspection?	Yes
Repairs/Maint. Needed?	No	Next Inspection Date	05/14/2005

Emergency Repairs | Routine Maintenance | Monitor Items

INSP00029	Fix trash rack
INSP00029	Repair leaking pipe
* INSP00029	

Text of emergency repairs that need to be completed

Start | Inbox - Microsoft... | W:\Project\2778... | Herndon_BMPD... | Main Switchboard | Document1 - Mi... | tbl_GISLink | 9:58 AM

Microsoft Access
File Edit View Insert Format Records Tools Window Help

BMP2_copy

Inspection / Maintenance Records View Tool

BMP ID

1164 02 0028B1

BMP TYPE

SP

HUC

02070008 A10

Watershed

Sugarland Run

BMP Detail

Dry pond - Pond ZZ

Site Plan

Worldgate

Insp Frequency

Annually

◀

◀

▶

▶

Close

Emergency Repairs

Inspection ID	Inspection Date	Emergency Repairs
▶ INSP00033	12/12/2004	None

Items to Monitor

Inspection ID	Inspection Date	Items to Monitor
▶ INSP00033	12/12/2004	None

Routine Maintenance

Inspection ID	Inspection Date	Routine Maintenance
▶ INSP00033	12/12/2004	Clear debris
* (AutoNumber)		

Herndon...

Form View
NUM


Start
Inbox - Microsoft...
W:\Project\2778...
Herndon_BMPD...
Main Switchboard
Document1 - Mi...
BMP2_copy
9:59 AM

Microsoft Access

File Edit View Insert Format Records Tools Window Help

Tahoma 15 B I U

Reports

 Town of Herndon BMP Inventory and Maintenance Database

☐ Inspections Pending

☐ Inspections Past Due

☐ Annual Summary

☐ Return to Main Menu

Herndon...

Form View FLTR NUM


Start | Inbox - Microsoft... | W:\Project\2778... | Herndon_BMPD... | Reports | Document1 - Mi... | 9:59 AM

Microsoft Access

File Edit View Insert Format Records Tools Window Help

Tahoma 15 B I U

Letters

 Town of Herndon BMP Inventory and Maintenance Database

☐ **Inspection Notification Letter**

☐ **Maintenance Notification Letter**

☐ **Maintenance Violation Letter**

☐ **Return to Main Menu**

Herndon...

Form View

FLTR NUM

Start | Inbox - Microsoft... | W:\Project\2778... | Herndon_BMPD... | Letters | Document1 - Mi... | 9:59 AM

APPENDIX 6A

Documentation of the Town of Herndon's current pollution prevention activities

The Town currently contracts out street sweeping activities as follows:

All residential streets are swept monthly

Commercial areas are swept biweekly

Downtown area is swept weekly.

Leaf collection occurs in November on alternating weeks for areas north and south of the bike trail.

Further information regarding pollution prevention activities is included in the attached draft Stormwater Pollution Prevention Plan:

DRAFT

STORM WATER POLLUTION PREVENTION PLAN

Prepared in Accordance with
General VPDES Permit For Discharges of
Storm Water Associated With Industrial Activity

TOWN OF HERNDON, VIRGINIA PUBLIC WORKS MAINTENANCE FACILITY



Prepared for:

Town of Herndon, Virginia

Prepared by:

AMEC EARTH & ENVIRONMENTAL, INC.

1355 International Terminal Blvd.

Suite 104

Norfolk, Virginia 23505

757.423.4580

4455 Brookfield Corporate Drive

Suite 100

Chantilly, Virginia 20151

703.488.3700

December 2003

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1. INTRODUCTION

1.1 BACKGROUND

This Storm Water Pollution Prevention Plan (SWPPP) has been prepared to comply with the United States Environmental Protection Agency (USEPA) National Pollutant Discharge Elimination System (NPDES) program under the amended 1987 Federal Water Pollution Control Act. A SWPPP: (1) consists of steps and activities designed to identify potential sources of storm water pollution or contamination and (2) establishes Best Management Practices (BMPs) that will prevent or reduce pollutants in storm water runoff. This SWPPP has been prepared in accordance with standard engineering practices.

The Commonwealth of Virginia has been delegated NPDES general permitting authority by the USEPA. The Commonwealth of Virginia, through the Virginia Department of Environmental Quality (VDEQ), has adopted final storm water permitting rules for industrial discharges in Virginia under the Virginia Pollutant Discharge Elimination System (VPDES) program. Based upon the primary Standard Industrial Classification (SIC) Code of this facility, coverage under the industrial General Permit is not required at this time. The Public Works Maintenance facility is primarily engaged in the maintenance of police cars and is thus classified under SIC Code 92. SIC Code 92 facilities are not classified as industrial activities under the storm water discharge regulations.

This facility has industrial-type activities that warrant consideration of controls for reducing or eliminating the discharge of pollutants to the storm water system. This SWPPP will address those activities and identify appropriate controls. [This SWPPP has been prepared to provide storm water pollution prevention guidance to the facilities. If in the future a General VPDES Permit for Discharges of Storm Water Associated with Industrial Activity is required \(9 VAC 25-151-10 et seq.\), additional responsibilities and requirements to be followed are outlined in Appendix E.](#)

In general, this facility and its personnel will perform the following actions:

- Establish spill containment procedures, drainage control, and security measures;
- Learn and implement storm water pollution prevention procedures and requirements;
- Follow written standard operation procedures for hazardous material handling and storage;
- Perform routine inspections; and
- Maintain records to document successful completion of SWPPP requirements.

The SWPPP establishes a comprehensive program to control storm water discharges from the Public Works Maintenance facility. The plan identifies and maps potential pollutant sources that may be reasonably expected to contribute to the contamination of storm water discharges. These sources include portions of the facility that are involved in vehicle maintenance, material handling, and equipment cleaning.

BMPs are recommended and/or being implemented to prevent or minimize material exposure to storm water, provide secondary containment of aboveground storage tanks to prevent leaks and spills from contaminating storm water, and provide for additional pollution abatement equipment. Additional inspection, operation, and maintenance programs are recommended to improve the effectiveness of ongoing pollution abatement practices, and an organizational structure is outlined for a Pollution Prevention Team. The team is responsible for developing the Storm Water Pollution Prevention Plan and assisting in its implementation, maintenance, and revision.

The goal of the SWPPP is to ensure to the maximum extent practicable that only the highest quality of storm water runoff is discharged from the Town of Herndon Public Works Maintenance facility. To achieve this goal AMEC Earth & Environmental, Inc. visited the facility on September 25th, 2003 to assess storm water pollution potential and identify BMPs to reduce pollutant loading. The results of the assessment have been organized into the following sub-sections:

- Facility Location and Description
- Facility Drainage
- Facility Spill History

The information collected during the assessment is used to develop the needed components for a BMP action plan. Existing BMPs are identified that need to be continued. In addition, baseline and site-specific BMPs are identified to improve storm water quality. The BMPs identified in this section will be implemented based on the priorities set in the SWPPP.

1.2 FACILITY LOCATION AND DESCRIPTION

The Public Works Maintenance building is located at 1479 Sterling Road, Herndon, Virginia. The site is located in a mixed commercial and residential area, southeast of the intersection of Sterling Road and Rock Hill Road, and southeast of the Herndon Police Department.

Activities performed at the facility include maintenance and repair of vehicles and equipment, refueling, vehicle and equipment washing, bulk fuel storage, chemical storage and handling, raw material stockpiles, and salt storage. The layout of the facility is shown in the SWPPP Site Location Map and Site Map (Figures 1 and 2). The SWPPP Site Location Map, located at the end of Section 1, shows the location of the Public Works Maintenance facility. The SWPPP Site Map (Figure 2), also included at the end of Section 1, identifies building locations, storm water drainage systems, potential pollution sources, and storm water discharge outfalls.

This facility has the following industrial activities:

Vehicle and Equipment Maintenance

Storm water discharges covered in this category include runoff from areas where the following maintenance activities may occur: fluid changes; mechanical repairs; parts cleaning; vehicle washing; storage of vehicles and equipment waiting for repair or

maintenance; and storage of the related materials and waste materials such as oil, fuel, solvents, batteries, tires, and filters.

Vehicle Refueling Operations

Storm water discharges covered in this category include runoff from areas where motor vehicle refueling operations may occur. These activities include fuel delivery to the facility, fuel storage both in separate containers and in vehicle tanks, and fuel dispensing.

Hazardous Materials Storage

Storage areas for new and waste materials such as paint, solvents, herbicides, pesticides, oil, lubricants, liquid asphalt, calcium chloride, batteries, and filters are included when the storage areas are either directly exposed to rainfall or when spills or leaks from these areas have the potential to enter the storm drainage system.

Raw Material Stockpiles

Storm water discharges covered in this category include runoff from stockpiles, bins, scrap piles, and storage areas. Stockpiles of sand and aggregate that are exposed to precipitation may cause storm water pollution due to sediment or chemical constituents in runoff.

1.3 FACILITY DRAINAGE

The topography is varied but generally slopes to the west side of the facility. Storm water runoff from the remote fueling station, salt/rock dust storage, and vehicle equipment storage area drain to storm inlets and then to the detention pond located west of the Public Works Maintenance facility.

The characteristics of the industrial drainage outfall (defined here as point source discharges of storm water to "Waters of the State") are identified below. A drainage basin identification number is assigned to SDO-001 and is shown on the SWPPP Site Map.

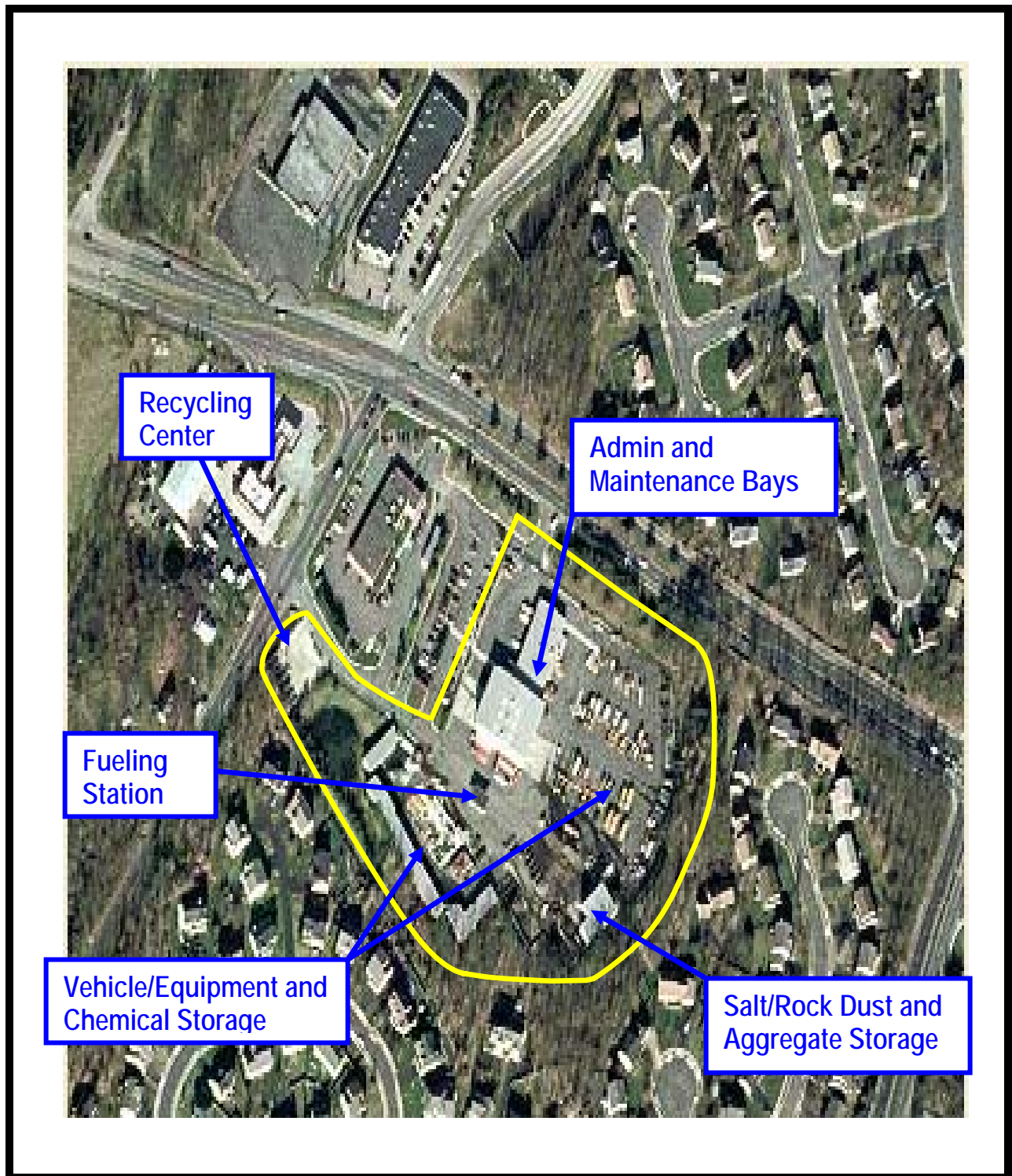
OUTFALL SDO-001

OUTFALL TYPE: **30" Pipe**
LATITUDE: **38 58 51 N**
LONGITUDE: **77 24 59 W**
DRAINAGE BASIN: **DA-001**
ON-SITE DRAINAGE AREA (acres): **9.7**
PERCENT IMPERVIOUS: **61%**
OFF-SITE DRAINAGE: **Yes**

1.4 FACILITY SPILL HISTORY

There have been no significant spills of oil or hazardous substances reported at the Public Works Maintenance facility in the three (3) years prior to the effective date of this Plan.

Figure 1. Site Location Map



2.0 ORGANIZATION AND PLANNING

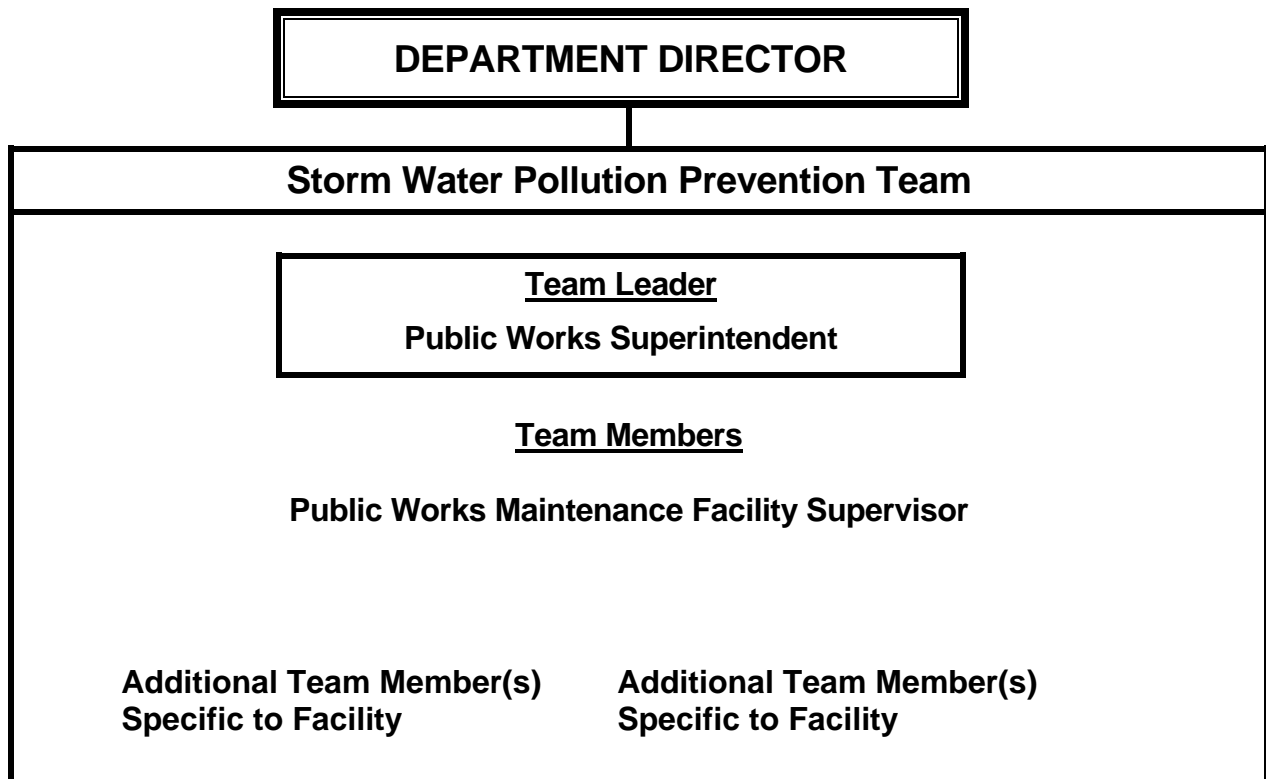
2.1 SWPPP RESPONSIBLE PARTIES

A key step in developing and implementing a SWPPP for the Public Works Maintenance facility is to establish an organizational hierarchy familiar with environmental pollution prevention plans and operational activities. The Storm Water Pollution Prevention Team (SWPPT) consists of facility supervisors and other personnel that the Town of Herndon, Virginia chooses to appoint. The SWPPT will report to the appropriate Department Director for funding and managerial support.

The SWPPT will meet at least once annually to evaluate the effectiveness of the Plan and determine if additional best management practices need to be added at the facility. A series of forms are provided in this Plan to assist the SWPPT. The SWPPT will make revisions to the Plan where changes to the facility significantly affect potential risks to storm water quality. These revisions can be brief narratives inserted as amendments to the Plan.

The organizational arrangement of the SWPPT is presented in Figure 3. The on-site team members or their designees will assist the SWPPT Leader in regards to those areas under their specific management control.

Figure 3. Organizational Chart



The responsibilities of the Department Director are to:

- Review the SWPPP;
- Appoint SWPPT Leader; and
- Review and approve Plan revisions and new BMPs identified by SWPPT.

The responsibilities of the SWPPT Leader are to:

- Ensure SWPPT members are trained and familiar with SWPPP requirements; and
- Ensure that the SWPPT carries out duties listed below.

The responsibilities of the SWPPT members are to:

- Implement best management practices;
- Assist with annual updating of the SWPPP; and
- Evaluate the adequacy of the SWPPP and modify as necessary.

2.2 PLAN RECOMMENDATIONS

2.2.1 Record Keeping

This SWPPP will be maintained on-site at the office of the SWPPT Leader. The SWPPP will be revised and updated when changes are made at the facility that will impact the exposure of significant materials to storm water or the overall effectiveness of the SWPPP, when an inspection determines that changes to the SWPPP are necessary, or when the SWPPP is ineffective in accomplishing the stated objectives. The SWPPP will be reviewed by the SWPPT at least annually.

As part of the Plan, the SWPPT will complete and document the required tasks for each year of plan implementation. Master blank inspection checklists and forms are provided in Appendix C.

The SWPPT Leader will provide copies of the blank inspection checklists and forms to SWPPT members each year, as needed. The SWPPT Leader will insert the completed forms and records into Appendix D.

Form 1 (Training Documentation Sheet) may be used each year to document SWPPP-related training at the Public Works Maintenance facility. SWPPT members may use another SWPPP training documentation method in lieu of this form.

Form 2 (Comprehensive Site Compliance Evaluation) will be completed once each year during the annual Comprehensive Site Compliance Evaluation.

Form 3 (Record of Plan Reviews and SWPPP Amendment Records) will be used each year to document the completion of intermediate and annual reviews by the SWPPT Leader and SWPPT members and to document annual amendments to the SWPPP.

Forms 4 and 5 will not be completed on a regular schedule, but will be completed after a particular incident occurs at the facility. **Form 4** (Release of Rainwater From Secondary Containment Structure) will be completed each time that accumulated rainwater is

released from exposed secondary containment structures where potential pollutant sources are located.

The SWPPT Leader will maintain a record of incidents of spills or leaks of significant materials that could impact storm water runoff, along with corrective actions, surface water discharge (if any), and other relevant information. **Form 5** (Significant Spill Report) may be used to document significant spill incidents that may occur. Public Works Maintenance facility personnel may use another documentation method in lieu of this form, if another spill documentation method is available.

Copies of all completed forms will be inserted into Appendix D. Records of inspection and maintenance activities such as cleaning and repairing storm water control and treatment facilities will also be maintained.

2.2.2 Personnel Training

Personnel training is essential to the effective performance of the SWPPP. Personnel at all levels of responsibility will be trained in the components and goals of the SWPPP. Personnel training shall address general topics such as Spill Response, Good Housekeeping, and Material Management Practices.

Personnel training shall also address particular topics such as summary of the facility's pollution prevention plan requirements, used oil management, spent solvent management, spill prevention and control, fueling procedures, general good housekeeping practices, proper painting procedures, and used battery management.

Personnel Training will be provided at a minimum on an annual basis and documented in the SWPPP. Personnel refresher training will be held on an annual basis. New personnel will receive training promptly upon assignment. A blank Training Documentation Sheet (Form 1) is provided in Appendix C and may be used to document SWPPP training.

2.2.3 Releases from Secondary Containment Structures

Secondary containment devices for bulk storage of liquid materials will be controlled by manually activated valves or other similar devices. The drain valves for containment structures will be closed at all times except when making a controlled release. Any storm water that accumulates in the containment area will be visually observed for color, foam, outfall staining, visible sheen, and dry weather flow prior to release of the accumulated storm water.

After each significant precipitation event, facility operators will inspect the rainfall or snowfall that has accumulated in the containment areas. If there is no evidence of oil or chemical contamination, the valves can then be opened to release the clean storm water to the drainage system. If oil or chemicals appear to be present, the contaminants will be removed and disposed of in accordance with local, state, and federal regulations. It may be necessary to remove and dispose of all the accumulated rainwater as a contaminated waste.

The drain valve openings and releases are required to be documented. A blank Release of Rainwater From Secondary Containment Structure (Form 4) is provided in Appendix C to document the releases. Completed copies of the form will be inserted into the SWPPP document. After releasing accumulated rainwater, the drain valve will be closed.

An accidental release from a secondary containment structure, including diked or bermed areas, should be treated like an accidental release or spill from any aboveground storage tank (AST). Appropriate spill response and reporting procedures will be followed to document the release.

2.2.4 Existing Environmental Plans

Future storm water management practices required by other regulations will be evaluated by the SWPPT and incorporated into the SWPPP during the annual update. The SWPPT Leader will maintain a current copy of these plans.

3.0 POTENTIAL POLLUTANT SOURCES

3.1 PUBLIC WORKS MAINTENANCE FACILITY

The Public Works Maintenance facility consists of a vehicle maintenance building (which houses administrative offices and vehicle maintenance operations); remote fueling station; salt/aggregate storage; equipment storage; and vehicle parking areas. Vehicle maintenance is performed in this building on police cars, Town-owned trucks and cars, garbage trucks and recycling trucks. Some outdoor vehicle washing occurs at this facility. A recycling center is located west of the facility.

Outdoor liquid transfers (OLT) occur to a 500-gallon motor oil, a 500-gallon hydraulic fluid, and a 275-gallon antifreeze single-walled AST located in a room on the northeast side of maintenance building. The room is designed with concrete secondary containment. Spill absorbent material is located in the maintenance facility. OLT occurs from a 600-gallon used oil underground storage tank (UST) located west of the facility. Used oil and used oil filters drain to the UST from a labeled used oil drain located in the maintenance area. Trench drains located along the inside of the building discharge through an oil/water separator (OWS) located northwest of the building and then to the sanitary sewer system. Personnel wash bay floors with a floor cleaning machine and wash water is discharged into the OWS.

Open dumpsters for aggregate, metal, and garbage; drums and containers of hazardous materials stored without cover or secondary containment; equipment and miscellaneous metal; a hazardous material building (paints, pesticides, and herbicides); and two three-sided sheds are located east, southeast, south, and southwest of the facility. Petroleum staining in the three-sided sheds was observed. Equipment and vehicles are stored east of the maintenance bays. Minor petroleum staining was observed at this storage area. Two 5500-gallon single-walled calcium chloride ASTs with no secondary containment; a three-sided salt/rock dust storage building; and piles of aggregate are stored southeast of the facility. Personnel complete vehicle and equipment washing southeast of the facility. Personnel use small amounts of detergent and wash water drains to an inlet that discharges to a swale and detention pond. The detention pond is part of the Public Works Maintenance facility.

The Remote Fueling Station located southwest of the facility is provided with a covered canopy. OLT occurs to a 10,000-gallon gasoline and a 10,000-gallon diesel UST. Petroleum staining is visible on the ground by the fueling pumps. Spill kits are located onsite.

3.2 RISK ASSESSMENT

Operations that have a high risk potential of contributing to a large spill which may contaminate the storm water drainage system and adjacent waters of the State are the delivery or transfer of fuels from storage tanks or refuelers, or the failure of a storage tank. Outdoor refueling, material handling, and vehicle/ equipment cleaning are other potential high risk sources of storm water pollution. Proper refueling and materials handling procedures as detailed in Section 4 - Best Management Practices will reduce the potential for water quality impacts.

Other moderate potential risks are incurred during delivery and off-loading of POLs and other hazardous substances. There is a moderate risk of small spills in vehicle and equipment parking areas and HAZMAT storage areas. Such spills can be from paint, lubricating oil, fuel, cleaning compounds, and brake or other hydraulic fluids.

A list of materials exposed to storm water runoff was compiled on September 25th, 2003 (refer to completed Form 10, Appendix D). There is a moderate risk of pollutants entering the storm water drainage system from exposed materials. Where practical, the facility will provide cover for or will relocate exposed materials indoors. Vehicles awaiting repair and scrap parts can introduce pollutants if these items are not completely emptied of fuels and lubricants, or are coated with oily residues. Where practical, the facility will conduct refueling, material handling operations, and vehicle and equipment cleaning operations indoors or under cover. In areas where the elimination of exposure is not practical, the facility will attempt to minimize storm water run-on at these locations by diverting storm water runoff away from the areas of potential contamination.

Some identified materials subject to long term exposure to precipitation represent a low-level risk of storm water pollution. Lead, zinc, and other heavy metals can precipitate from exposed items (e.g., galvanized sign posts, scrap metal) in contact with acidic rainfall. It is impractical to cover all vehicle parking and storage areas where items such as pipes, beams, and timbers are stored. Since these items represent a low potential for storm water pollution, a constructed roof covering is not warranted. Scrap materials and other items no longer in use will be removed from the site promptly.

Except for bulk storage of liquids, operations that occur inside buildings represent low risks of storm water pollution. The positioning of drums and containers of hazardous materials near exterior doors increases the potential for a spill to flow from the building and into the storm water drainage system. Such containers will be located away from exterior doors where practical.

4.0 BEST MANAGEMENT PRACTICES

4.1 BMP ASSESSMENT PROCESS

The facility will consider and implement practical best management practices (BMPs) to control potential storm water pollution. This section describes the process used to select BMPs as well as provides further description of purpose and intent of the BMP. BMPs are generally divided into two categories;

- **Baseline BMPs** - which are general in nature (e.g., good housekeeping) and apply to most industrial facilities,
- **Site-Specific BMPs** - which pertain to a specific facility (e.g., construction of a concrete containment around an individual fuel tank).

The VDEQ and USEPA emphasize the establishment of pollution prevention measures and BMPs that reduce the potential for pollutant discharges at the source. Source reduction measures include preventative maintenance, chemical substitution, spill prevention, good housekeeping, pollution prevention training, and proper materials management. Where such practices are not appropriate to a particular source or do not effectively reduce pollutants in storm water discharges, VDEQ and USEPA support the use of source control measures and BMPs such as material segregation or covering, debris control, vegetative filter strips, infiltration and storm water detention or retention, runoff diversion, and dust control. Like source reduction measures, source control BMPs are intended to keep pollutants out of storm water. The remaining classes of BMPs, which involve recycling or treatment of storm water, allow the reuse of storm water or attempt to lower pollutant concentrations prior to discharge.

4.2 BASELINE BMPS

Baseline BMPs are practices that are generic and can be applied at most industrial facilities. Facilities should address several baseline BMPs such as developing preventative maintenance and good housekeeping programs.

4.2.1 Storm Water Pollution Prevention Training

Facility personnel will receive training on Plan compliance, pollution prevention and spill response. The Public Works Maintenance facility can develop the training programs as they see fit. They may provide the training with in-house staff and resources, or may contract with vendors to provide the training.

4.2.2 Good Housekeeping Program

Good housekeeping is the preservation of a clean and orderly work environment that contributes to overall pollution control efforts. The implementation of this program may also include some materials management practices as they relate to storage of drums and bench stock in the shop areas. Adherence to the following practices will minimize the potential for storm water pollution:

- Maintain dry and clean floors. Interior floors will be swept weekly, with residue placed in designated waste disposal containers. Spills/drips/leaks will be cleaned promptly.
- Contaminated dry granular absorbents (e.g., "speedi-dri") will be swept daily and disposed properly.
- Brooms, dust pans, and mops will be hung on racks for easy access and use.
- Trash will be picked up on a regular basis and disposed properly.
- Catch basins and other inlets to the storm water drainage system will be checked regularly. Litter and trash will be removed and disposed properly.
- Separate holding cans will be provided for oily rags as a fire prevention aid.
- The exterior grounds will be policed bi-weekly. Litter and other trash will be disposed properly. Scrap parts and empty drums will be removed from the facility promptly. Dumpsters and recycle bins will be covered to prevent rainfall from coming in contact with container contents.
- All equipment will be visually inspected for leaks and other conditions that could lead to a discharge of a pollutant.
- Hazardous substances will be stored in approved containers. The containers will be stored in an area not exposed to storm water where practical. The containers will be located away from direct vehicular traffic.
- Containers of liquids will be placed on spill containment pallets or racks to prevent corrosion and contain leaks. The containers will be stored in an area not exposed to precipitation where practical.
- Containers of chemicals and other compounds or mixtures will be labeled with name of substance, stock number, expiration date, health hazards, safe handling requirements, and first aid information. For each chemical substance used, a Material Safety Data Sheet (MSDS) will be provided in areas accessible to personnel.
- Drums and tanks containing used oil must be labeled "USED OIL."
- Good housekeeping procedures will be included in the employee training program.

4.2.3 Preventative Maintenance Program

The Public Works Maintenance facility will regularly inspect and test facility equipment and operational systems whose failure has a potential to release pollutants into the storm water drainage system. Inspections will uncover conditions such as cracks or slow leaks that could cause breakdowns or failures that result in discharges of chemicals or particulate matter (solids) to the storm water drainage system. The program will reduce breakdowns and failures by making proper adjustments, repair, or replacement of equipment or parts.

Standard operating procedures include two specific preventative maintenance periods:

- Run-time preventative maintenance occurs daily during working hours as normal operation of the equipment and machinery.
- Preventative maintenance at regularly scheduled intervals involves inspections, cleaning, and minor repairs.

The following items, if present at the facility, should be inspected periodically as they have a direct risk to storm water. Written documentation of these scheduled inspections should be maintained.

- Fuel Pumps: Items such as the hoses, nozzles, electrical components, and gauges will be checked for wear. Routine maintenance will adjust and replace items as needed. Fuel pumps should be inspected quarterly.
- Oil pumps: Drip containment devices will be inspected for proper operation. Seals, couplings, and valves will be inspected and replaced as needed. Oil pumps should be inspected quarterly.
- Other Pumps: These devices are subject to frequent inspection and maintenance that includes lubrication, balancing, repacking bearings, and tightening of support bolts and pipe connections. The pump manufacturers' recommendations will be followed. Other pumps that handle hazardous substances with a reasonable potential to pollute storm water should be inspected quarterly.
- Mobile Equipment: These machines will be inspected for leaking hydraulic fluids, fuel lines, liquid asphalt, and lubricating oils. Mobile equipment should be inspected quarterly.
- Secondary containment structures: These structures will be equipped with a valve controlling discharge. The valves will be kept in the closed position. Discharges will be made in accordance with the applicable regulations. The inspector will observe the structural integrity, valve operation, and look for signs that the primary tank may be leaking. Exposed secondary containment structures should be inspected quarterly.
- For those secondary containment structures without drain valves, rainwater disperses through evaporation. However, accumulated residue must be removed and disposed properly.
- Pipes and supply lines: Pressurized POL or other hazardous substances supply pipes should be inspected quarterly. Special attention will be made to supports, connectors, couplers, and valves.
- Other: Equipment used for recycling various compounds will be inspected and maintained as directed by the original manufacturer. Other equipment that presents a reasonable risk for storm water pollution should be inspected quarterly.

Preventative maintenance also pertains to storm water controls such as infiltration devices, diversion structures, detention facilities, and other storm water treatment systems. Storm water controls will be kept in proper operating condition.

4.2.4 Spill Prevention and Response

Spill prevention and response information and procedures will be kept at the SWPPT Leader's office and at each shop location. The potential spill sources with high risk for contaminating storm water include the storage and handling of fuels/ hazardous substances and vehicle/ equipment maintenance activities. Accidents and careless handling during these activities can cause spilled liquids to enter the storm water drainage system.

Spill Prevention

During transfer of fuel or delivery of hazardous substances, the driver and handlers will be responsible for preventing spills. The driver will ensure that all hoses are secure and that proper absorbent materials (e.g., pads, booms and socks) are available before unloading. During all fuel delivery operations, the driver will remain with the vehicle at all times. Absorbent pads and booms are to be located near the fuel delivery/ connection points.

Employee awareness is the key to an effective spill prevention and response program. Spill prevention training will be a component of the general employee training program. New personnel will be taught spill prevention practices. Maintenance personnel will gain a sufficient understanding of the objectives of the spill prevention program. Spill prevention training will highlight previous spill events, equipment failures, remedies taken, and newly developed prevention measures.

Establishing a security system may prevent an accidental or intentional release of materials to the storm water drainage system as a result of vandalism, theft, sabotage, or other improper uses of the property. Routine patrol, personnel training, lighting, signage, and access control are possible measures to include in the facility's security system.

The SWPPT will evaluate the spill prevention program once each year. Spill prevention items that are addressed within this SWPPP and that may need annual review and revision include:

- Review and update materials inventory list (emphasis on hazardous substances)
- Identify potential spill sources
- Establish incident reporting procedures
- Develop inspection procedures
- Review previous incidents
- Establish a training program
- Review new construction and proposed operational changes

Spill Response

In case of large volume spills, this facility will request aid from the local fire department. Additionally, the local emergency management agency may be contacted for assistance

with large volume spills. Warning signs placed at fuel stations, bulk storage tanks, or other refueling areas should contain emergency telephone numbers to aid in quick response. Fuel Stations that operate 24-hours a day should post warning signs with 24-hour emergency telephone numbers.

Minor spills can be absorbed with dry granular absorbents, pads, booms or socks. Many liquid materials stored at the facility are used inside buildings or are otherwise not normally exposed to the storm drainage system. Small spills can be controlled by sweeping or mopping the material into approved containers for proper disposal. Proper disposal includes removing absorbent compounds from the floor on a timely basis.

This facility does not use any extremely hazardous substances, but certain precautions regarding onsite materials are necessary. Spills that occur outside on vehicle parking lots or equipment storage lots may discharge to the storm water drainage system.

Reasonable measures necessary to prevent contamination of soil or waters of the State will be carried out. In general, there are four basic steps that are to be taken to control pollution that can result from a spill:

1. Stop the spill at the source.
2. Contain the spill.
3. Collect the spilled material.
4. Dispose of the spilled material and subsequent contaminated material properly and legally.

If containment methods are required for which the responder is not trained, or personal protective equipment is not available, immediately evacuate the contaminated area and prevent unauthorized personnel from entering. Steps 3 and 4 should only be undertaken by personnel that are properly trained in spill response and cleanup.

4.2.5 On-Site Contractor Responsibilities

While the Town of Herndon, VA is ultimately responsible for pollutants that leave its site, the Town will make it clear to all vendors that come on to the site that vendors will be responsible for the cost and effort to clean up and remediate spills and other incidents caused by the vendor that creates pollution problems.

The Town will develop legal language to include in all vendor contracts describing the vendor's responsibilities for pollution prevention while on-site at the Public Works Maintenance facility. For example, fuel vendors have a high risk of creating a spill that could introduce gasoline or diesel fuel into the storm water drainage system. Vendors must observe all fuel and liquid deliveries, and be able to respond immediately to a spill incident.

4.2.6 Industrial Activity Exposure

The facility will take reasonable measures to minimize the exposure of industrial activities to precipitation and storm water run-on. Measures include:

- Conducting industrial activities indoors or under cover
- Storing materials and parts indoors or under cover
- Diverting run-on away from the industrial activity area with berms, ditches, curbing, and buffer strips
- Diverting runoff from industrial activity areas with appropriate runoff management methods

This SWPPP does not require that inert construction material such as wood posts, steel girders, aggregate, or pipe be placed under cover.

4.2.7 Daily Observations

General walk-throughs of work areas should be conducted by the SWPPT Leader, unit or shop supervisor, or other designated personnel during normal daily duties. A written record is not required for these daily observations. Particular attention will be made in regards to leaks, spills, and properly operating equipment. Problems will be reported and corrected as soon as practical. The following list will serve as a guide to critical items:

- Tanks and Drums - observe for leaks, corrosion.
- Check secondary containment structures. Drains should be closed.
- Lube trucks, asphalt distributors, landscape chemical distributors, paint trucks, and other refueler trucks - observe for leaks, malfunctioning control valves.
- Look for unusual stains on walls, floors, and grounds.
- Look for deterioration of equipment foundations and anchorages.
- Check for and remove debris from storm water drainage system inlets.
- Check for windblown materials or materials tracked by vehicles that can enter the storm water drainage system – observe rock dust and salt storage bins.
- Are any unusual odors detected?
- Is equipment operating properly? Is excessive noise, vibration, or exhaust present?
- Is the work area kept in a clean and orderly manner? Practice good housekeeping.
- Inspect pipelines. Look for deteriorating gaskets, supports, and loose valve stems.
- Make sure all valves are in proper position.
- Look for leaking containers. Replace as necessary.
- Check for torn bags of dry materials or bags exposed to rainwater.
- Check that dry granular absorbents used to contain floor spills are properly cleaned up.
- Check condition of spill response kits and quantity of absorbent materials.

- Clear access to all safety equipment such as eyewashes, fire extinguishers, and spill kits.
- Clear access to emergency exit doors. Emergency exit doors must be kept unlocked during all work hours.

4.2.8 Scrap Material Storage and Salvage

Measures to be taken by the Public Works Maintenance facility to minimize the quantity of scrap materials stored at the facility and the potential water quality impact are as follows:

- Remove scrap materials from the site promptly.
- Divert run-on away from scrap storage areas.
- Divert runoff from scrap storage areas through a buffer strip or onto a level grassy area
- Minimize direct runoff into the storm water drainage system with the use of buffer strips or other runoff management devices.

Some items present a pollutant risk while they are stored on site. For example, old tanks may still contain residue. Rusting tanks introduce leached metals into the storm water runoff. Abandoned tanks will be emptied and cleaned, and removed from the site. Ensure scrap materials are free from lubricants and loose paint to the extent practical. Ensure that salvaged vehicle fuel tanks are empty and drips are contained.

Small scrap items such as automotive batteries will be stored indoors or under cover until removed from the facility.

4.2.9 Vegetation Practices

Preserving existing vegetation or revegetating disturbed soil as soon as possible after construction is the most effective way to control erosion.

Vegetation practices reduce erosion by:

- Shielding the soil surface from direct erosive impact of rain;
- Improving the soil's water storage porosity and capacity so more water can infiltrate into the ground;
- Slowing the runoff and allowing sediment deposits; and
- Physically holding the soil in place with plant roots.

Vegetative buffers (e.g., grass filter strips, forested buffers) improve storm water runoff quality by slowing down the rate of flow, trapping sediment and other pollutants, and increasing infiltration into the ground. The facility should maintain buffers around the site perimeter to the extent practical.

Vegetation cover can be grass, trees, shrubs, bark, mulch, or straw. Grasses are the most common types of cover used for revegetation because they grow quickly and provide

erosion protection within days. Straw or mulch may be used during non-growing seasons to prevent erosion. Keep existing shrubs and trees because their established root systems help prevent erosion.

Vegetation and other site stabilization practices can be either temporary or permanent controls. Temporary controls provide a cover for exposed or disturbed areas for short periods or until permanent erosion controls are put in place. Permanent vegetative practices are used when activities that disturb the soil are completed or when erosion is occurring on a site that is otherwise stabilized.

4.2.10 Sediment and Erosion Control

Sites where soils are exposed to water, wind, or ice can have erosion and sedimentation problems. Sedimentation occurs when soil particles are suspended in surface runoff or wind and are deposited in streams or other water bodies. Construction and other ground surface disturbing activities can accelerate erosion by removing vegetation, compacting, or disturbing the soil, changing natural drainage patterns, and by covering the ground with impermeable surfaces (pavement, concrete, buildings). When the land surface is impermeable, storm water can no longer infiltrate, resulting in larger amounts of water that can move more quickly across a site and which can carry larger amounts of sediment and other pollutants to streams and rivers.

Areas that are erosion-prone or where construction activity is occurring will be inspected regularly. This also includes areas with such heavy activity that plants cannot grow, soil stockpiles, stream banks, steep slopes, construction areas, demolition areas, and any area where the soil is disturbed, denuded (stripped of plants), and subject to wind and water erosion. Sedimentation and erosion control devices will be installed and maintained.

Several ways to limit and control sediment and erosion are to:

- Leave as much natural vegetation and plants on-site as possible;
- Minimize the time that soil is exposed;
- Prevent runoff from flowing across disturbed areas - divert the flow to vegetated areas;
- Stabilize the disturbed soils as soon as possible;
- Slow down the runoff flowing across the site - use level spreaders or terraces;
- Provide check dams in drainage ways to decrease flow velocities;
- Use grassy swales rather than paved channels; or
- Remove sediment from storm water runoff before it leaves the site by allowing it to sheet flow through vegetative buffers.

Using these measures to control erosion and sedimentation is an important part of storm water management. Selecting the best set of sediment and erosion prevention measures depends upon the nature of the on-site activities and other local conditions. Refer to the Virginia Erosion and Sediment Control Handbook for additional details and information.

4.2.11 Management of Runoff

Management of runoff is the consideration of appropriate traditional storm water management practices (practices other than those which control the source of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. Procedures determined to be reasonable and appropriate will be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges from industrial activity will be considered when determining reasonable and appropriate measures. Appropriate measures may include:

- Vegetated buffer zones (grassed areas along facility perimeter)
- Vegetated swales (vegetated depression used to transport, filter, and remove sediment);
- Storm water diversion devices (grass berms, curbing);
- Reuse of collected storm water (such as for a process or as an irrigation source);
- Inlet controls (such as passive sediment interceptors);
- Snow management activities;
- Infiltration devices; or
- Detention/ retention basins.

Many BMPs are measures to reduce pollutants at the source before they have an opportunity to contaminate storm water runoff. Traditional storm water management practices can be used to direct storm water away from areas of exposed materials/ potential pollutants. Traditional storm water management practices can also be used to direct storm water that contains pollutants to natural or other types of treatment locations. For example, using grass berms to divert runoff away from storage yards minimizes the pollutants leaving the site. These storm water management practices will be selected on a case-by-case basis depending on the activities and flow characteristics at the facility.

4.3 SITE-SPECIFIC BMPS

4.3.1 On-site and Remote Refueling Operations

The Public Works Maintenance facility should implement BMPs at on-site fuel stations, fuel depots, and work sites that are located off-site but are under the control of this facility. The facility may conduct remote refueling activities during field maintenance and construction operations. The following BMPs can be implemented to prevent or minimize contamination of storm water runoff from fueling activities.

- Instruct personnel to avoid “topping off” the fuel tanks.
- Instruct drivers of lube trucks to remain with vehicle during entire fuel delivery process.
- Provide drip pans at remote fueling locations and with lube trucks to collect small leaks.
- Provide spill kits at remote fuel depots and with lube trucks.
- Minimize outdoor refueling operations during times of heavy rainfall.
- Provide secondary containment for lube trucks or fuel storage tanks used as a stationary fuel point at remote work sites.

4.3.2 Spill Kits

A complete and adequate spill kit should be positioned in an easily accessible location near the hazardous substance storage areas at the Public Works Maintenance facility. Facility personnel should have knowledge of the location of and should have access to a centrally located standard spill kit. This standard spill kit will be utilized by facility personnel for both minor and major spill incidents. The spill kit should have sufficient absorbents to contain a spill from the largest container within the hazardous substance storage location.

Absorbent pads will be located at equipment shops, oil changing and lube bays, and any building where 55-gallon drums are stored in bulk.

For reference, two types of spill kits are listed below:

a) Standard spill kits will consist of spill response equipment sufficient to control and contain a 55-gallon spill of POL. A typical standard spill kit consists of the following:

- 30 booms (3 inch diameter x 4 feet long)
- 30 two-liter pillows
- 75 absorbent pads (18 inch square)
- 15 pounds of dry granular absorbent
- 24 disposal bags
- 8 pair nitrile gloves
- 2 pair goggles
- 4 sets of X-large tyvek coveralls
- 1 non-sparking shovel
- plastic container to hold items

b) Small spill kits will consist of spill response equipment sufficient to control and contain a 25-gallon spill of POL. A typical small spill kit consists of the following:

- 15 booms (3 inch diameter x 4 feet long)
- 15 two-liter pillows
- 40 absorbent pads (18 inch square)
- 10 pounds of dry granular absorbent
- 12 disposal bags
- 4 pair nitrile gloves
- 2 pair goggles
- 2 sets of X-large tyvek coveralls
- 1 non-sparking shovel
- plastic container to hold items

The facility should have at least one 85-gallon overpack drum, or similar containers, for holding contaminated materials (e.g., soil, booms) prior to disposal.

4.3.3 Vehicle and Equipment Cleaning Areas

The point source discharge of vehicle and equipment washwaters is not authorized by VPDES permits. Should this facility require a VPDES storm water permit in the future, such washwater discharges must be covered under a separate VPDES general permit or discharged to a sanitary sewer in accordance with applicable local industrial pretreatment requirements.

The Public Works Maintenance facility will evaluate existing washing operations that are conducted on-site. If a sanitary sewer system is not available to the facility and cleaning operations take place outdoors, the cleaning operations should take place on level grassed or graveled areas to prevent point source discharges of the washwater into storm drains or surface waters. Where cleaning operations cannot be performed as described above and when operations are performed in the vicinity of a storm drainage collection system, the drain should be covered with a portable drain cover during cleaning activities. Any excess ponded water will be removed and properly disposed. Detergents will be biodegradable and the pH adjusted to be in the range of 6 to 9 standard units.

The following methods are recommended to prevent or minimize contamination of the storm water runoff from areas used for vehicle and/or equipment cleaning operations:

- Perform all cleaning operations indoors (if drain to sanitary sewer system is provided).
- Provide cover for outdoor cleaning operations.
- Do not discharge washwater directly into the storm water drainage system.
- Collect washwater runoff from cleaning areas and provide treatment or recycling.

4.3.4 Oil/ Water Separators

Oil/ water separators (OWSs) require frequent and maintenance to operate properly. OWSs are designed to trap oil and other pollutants that float on the surface of water. The introduction of detergents, acids, heavy pollutants, and soluble materials will render the OWS ineffective. OWSs are not designed to treat storm water as large flows through OWSs cause the oil to bypass the separation chamber.

OWSs should not discharge to the same septic tank to which domestic sewerage discharges. Oil that bypasses the OWSs can cause a septic tank to malfunction. OWSs that remain in service require regular maintenance and removal of accumulated oily sludge and grit. The SWPPT should refer to the vendor's literature for maintenance requirements.

4.3.5 Secondary Containment

Secondary containment will be provided for bulk storage of liquids, storage of water priority chemicals, and hazardous substance storage. Refer to Emergency Planning and Community Right-to-Know Act (EPCRA) Section 313 of Title III of the Superfund Amendments and Reauthorization Act (SARA) for a list of water priority chemicals. No such chemicals are known to exist at the Public Works Maintenance facility. Secondary

containment can take many forms depending on the types and quantity of containers, exposure to precipitation, and operation criteria.

Secondary containment should be provided for the following HAZMAT storage areas:

- At ASTs, including ASTs containing liquid calcium chloride, used oil, and heating oil;
- Where non-empty 55-gallon drums are stored;
- Where drums or other containers are used as dispensing units within workshops;
- Where paint, solvents, and thinners are stored;
- Where POLs are stored;
- Where liquid pesticides and herbicides are stored; and
- Where other liquid hazardous substances are stored.

For ASTs exposed to precipitation, the secondary containment should be constructed of impervious materials such as poured-in-place concrete. The volume of secondary containment should equal the volume of the largest AST within the containment plus sufficient freeboard for a specified storm event. If a drain valve is provided, the valve will remain closed except when making a controlled release of uncontaminated rainwater. A roof over the containment will minimize accumulated rainwater. Other options for ASTs include:

- Provide prefabricated tanks with integral secondary containment and rain shed.
- Provide double-wall tanks.

Containers in sizes up to 55 gallons (e.g., buckets, jerricans, drums) have several options:

- Store containers inside a prefabricated metal HAZMAT storage building with integral secondary containment.
- Use the existing building and provide a built-up curb or berm at the doorway threshold. Install a ramp to provide access for drums and to prevent trips.
- Use the existing building and place a spill blocker across the doorway threshold.
- Use the existing building and provide spill containment pallets for the containers.
- Build a depressed concrete slab with curbing and a shed roof.
- Store small containers within a self-contained flammables cabinet.

Secondary containment that is not exposed to precipitation should have a volume equal to 110% of the largest container within the secondary containment device.

Controlled Releases

Accumulated rainwater can be released from exposed secondary containment structures in compliance with certain VPDES requirements. Each release will be documented using a copy of Form 4 provided in this document. Before releasing, the observer will determine if the accumulated rainwater is contaminated. If contamination is evident, then the contamination will be removed prior to the release. Uncontaminated rainwater can be released directly into the storm water drainage system or onto the

ground. In all cases, complete a copy of Form 4 for each release. Close the drain valve after the release is completed. Refer to Section 2.2.3 in this document for additional information.

Accumulated sludge in non-exposed secondary containment structures will be characterized, either by analytical methods or generator knowledge, and disposed accordingly.

4.3.6 Hazardous Materials Storage and Management

For purposes of this document, the term hazardous material includes hazardous substances defined by USEPA, hazardous materials defined by federal DOT rules, regulated hazardous wastes, non-regulated wastes, and any other material or substance that is a reasonable potential storm water pollutant.

The facility has the following options for hazardous materials storage:

- Store hazardous materials indoors within secondary containment.
- Store hazardous materials outdoors under cover and within secondary containment.
- Store hazardous materials in prefabricated HAZMAT storage building with integral secondary containment.
- Store small hazardous material containers in a flammables cabinet with integral secondary containment.

The Public Works Maintenance facility should provide a spill kit near or at locations where HAZMATs are stored. A spill kit will consist of absorbent pads, booms, and dry granular absorbents in sufficient quantity to contain a spill from the largest container at that storage location. Non-sparking shovels should be provided to aid in cleaning up the spill. Provide a container for disposing of the used absorbents. See Section 4.3.2 for additional information on spill kits.

The facility should also ensure that hazardous material containers are labeled properly. Labels will help the employee handle and use the material safely and respond to spills efficiently. Labeling is regulated under other environmental laws.

Active ASTs should be labeled with the contents, capacity, and an emergency phone number.

4.3.7 Hazardous Waste Storage and Management

Each work area that generates hazardous waste will designate a satellite accumulation point (SAP). The SAP will meet the requirements specified in 40 CFR 262.34.

The facility has the following options for hazardous waste storage:

- Store hazardous waste indoors within secondary containment.
- Store hazardous waste outdoors under cover and within secondary containment.
- Store hazardous waste in prefabricated HAZMAT storage building with integral secondary containment

- Store small hazardous waste containers in a flammables cabinet with integral secondary containment.

The Public Works Maintenance facility should provide a spill kit near or at locations where hazardous wastes are stored. A spill kit will consist of absorbent pads, booms, and dry granulars in sufficient quantity to contain a spill from the largest container at that storage location. Non-sparking shovels should be provided to aid in cleaning up the spill. Provide a container for disposing of the used absorbents. See Section 4.3.2 for additional information.

Ensure that hazardous waste containers are labeled properly. Labels will help the employee handle and use the material safely and respond to spills efficiently. Labeling is regulated under other environmental laws.

4.3.8 Salt/Rock Dust Mixture Storage

The Public Works Maintenance facility has the following options for minimizing storm water pollution from salt/rock dust mixture storage areas:

- Divert run-on away from the salt/rock dust mixture storage area.
- Minimize direct runoff from the salt/rock dust mixture storage area into the storm water drainage system with the use of bump diverters, curbed containment, or other runoff management devices.
- Practice good housekeeping to eliminate spillage of salt/rock dust mixture in non-covered areas and sweep salt/rock dust residue into covered storage areas.

4.3.9 Illicit Connections and Improper Discharges Elimination

Illicit connections include direct pipe or other conveyance tie-ins to the storm water drainage system. Improper discharges include the dumping of non-permitted non-storm water materials into the storm water drainage system.

Floor drains that connect to the storm water drainage system are illicit connections that provide an avenue for an improper discharge. Floor drains connected to the storm water drainage system should be plugged. Personnel will be instructed not to pour non-storm water materials into catch basins, drop inlets, ditches, and other portions of the storm water drainage system.

Floor drains that are connected to an oil/ water separator or other storm water treatment device may be allowed if pollutants do not bypass the treatment device. Refer to Section 4.3.4 for the proper operation of OWSs.

Floor drains that are connected to the sanitary sewer system will be identified and marked. Personnel will be trained to neither pour, dump, nor place any thing in these floor drains that could cause an upset to the sanitary sewer system. The entry of POL, paint, solvent, and landscape chemicals are examples of compounds that may upset the sanitary sewer system. Follow the manufacturer's instructions for the entry of diluted janitorial cleaning compounds into the sanitary sewer system.

Hand sinks that discharge to the ground or storm water drainage system are illicit connections. These hand sinks will be re-routed to the sanitary sewer system. Label hand sinks with instructions prohibiting the entry of hazardous substances.

4.3.10 Contaminated Soil Removal

Contaminated soil can cause storm water runoff pollution problems. Where spills of POLs or other hazardous materials are excessive and are causing pollutants to enter the storm water drainage system, remediation may be necessary. A description of soil remediation methods is beyond the scope of this document. The SWPPT should contact the Department Director for assistance with contaminated soil removal and disposal. A hazard characterization may be required of removed soil before disposal.

The SWPPT will not remove contaminated soil until authorized by the Department Director. For recent spills and areas near traffic, barricades may be erected to minimize tracking of the contaminated soil from the site.

4.4 BMP SCHEDULE

A BMP action plan is a key component of the SWPPP. Proper selection and implementation of both structural and non-structural BMPs is necessary to reduce pollutant loading to storm water.

Table 1 summarizes the existing BMPs that were identified during the September 25th, 2003 site investigation. References to detailed BMP information discussed in Section 4 of this plan are provided in this table. Table 2 summarizes recommended BMPs for the Public Works Maintenance facility.

Table 1
Existing Best Management Practices

Outfall	Location	Existing Best Management Practice	Ref. To Section 4	Target Date	Implement Date
SDO-001	East of facility	Minimal industrial activities occur outdoors	4.2.6	on-going	<u>09/25/03</u>
SDO-001	Northwest of facility	OWS is located on the northwest side of the facility	4.3.4	on-going	<u>09/25/03</u>
SDO-001	Southeast of facility	Salt/rock dust stockpile is stored in a covered three-sided building	4.3.8	on-going	<u>09/25/03</u>
SDO-001	South and Southwest of facility	Covered storage buildings provide cover for vehicles and equipment	4.2.6	on-going	<u>09/25/03</u>
SDO-001	South of facility	Hazardous materials storage building	4.2.2	on-going	<u>09/25/03</u>
SDO-001	West of facility	Detention Pond collects storm water runoff from facility	4.2.6, 4.2.10, 4.2.11	on-going	<u>09/25/03</u>
SDO-001	Fueling Station	Covered fueling station provides cover during fueling and transfer operations	4.2.6	on-going	<u>09/25/03</u>
SDO-001	Fueling Station and East of facility	Dry granular absorbents are used to contain minor drips, leaks, and spills	4.2.2, 4.3.2	on-going	<u>09/25/03</u>

Table 2
Recommended Best Management Practices

Outfall	Location	Recommended Best Management Practice	Ref. To Section 4	Target Date	Implement Date
SDO-001	Southeast, South, and Southwest of facility	Ensure all drums/ containers/ ASTs are labeled for content and hazard.	4.2.2, 4.2.8	90 days	
SDO-001	Southeast, South, and Southwest of facility	Ensure personnel are trained on the storage and handling of hazardous materials/waste.	4.2.1	90 days	
SDO-001	Southeast of facility	During chemical transfer operations to and from calcium chloride ASTs, ensure storm inlet is blocked	4.2.4	on-going	
SDO-001	Southeast of facility	Maintain salt/rock dust building and sweep residue into building after loading/unloading operations	4.3.8	on-going	
SDO-001	Around facility	Minimize outdoor material storage from exposure to precipitation by covering, removing, and properly disposing of material where practical	4.2.6	on-going	
SDO-001	Fueling Station, East, South, and Southwest of facility	Clean up chemical spills immediately and dispose of contaminated spill material	4.2.2, 4.2.4	on-going	
SDO-001	South and Southwest of facility	Provide covered secondary containment for all drums and containers of hazardous materials/wastes stored outdoors	4.3.5, 4.3.6	90 days	
SDO-001	East of facility	Use drip pans under vehicles and equipment to prevent spills	4.2.4	on-going	
SDO-001	East of facility	Ensure dumpster lids are kept closed at all times and empty dumpsters frequently to prevent overflow	4.2.2, 4.2.8	on-going	
SDO-001	Facility wide	Develop a site-specific spill prevention plan and personnel training on spill prevention.	4.2.4	on-going	
SDO-001	Wash Area and East of facility	Ensure personnel are trained on vehicle/equipment washing in approved areas	4.3.3	on-going	

* See Appendix D, Form 10, for specific information on recommended BMPs based on September 25th, 2003 field evaluation.

Appendix 6B

Maintain and track certification for all employees handling and applying herbicides and pesticides

Bo Kirk and John Dudzinsky are Certified Applicators in Turf, Ornamentals and Public Health Pest Control.

The following Techs work under Bo's and John's Certifications but are Registered Techs in Turf and Ornamentals.

- Ronnie Jackson
- Ollie Bertrand
- Elizabeth Hogan
- Larry Hogan
- Eddie Woodson
- Luis Resto
- Carl Lowe
- Urcelle Smith

They attend training once a year in an approved class offered by the Virginia Department of Agriculture and Consumer Service in order to maintain certifications. We keep a logbook to track the applications.